

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2001/0291(COD) Procedure completed
Packaging and packaging waste: recovery and recycling of waste Amending Directive 94/62/EC	1992/0436(COD)
Subject 3.70.12 Waste management, domestic waste, packaging, light industrial waste	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	DELE EP Delegation to Conciliation Committee		10/07/2003
		PSE CORBEY Dorette	
	Former committee responsible		
	ENVI Environment, Public Health, Consumer Policy		22/01/2002
		PSE CORBEY Dorette	
	ENVI Environment, Public Health, Consumer Policy		22/01/2002
		PSE CORBEY Dorette	
	Former committee for opinion		
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.		
ITRE Industry, External Trade, Research, Energy			27/03/2002
		PPE-DE NIEBLER Angelika	
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	2558	26/01/2004
	Agriculture and Fisheries	2528	29/09/2003
	Employment, Social Policy, Health and Consumer Affairs	2492	06/03/2003
	Environment	2457	17/10/2002
	Environment	2439	25/06/2002
	Environment	2413	04/03/2002
	Environment	2399	12/12/2001
European Commission	Commission DG	Commissioner	
	Environment		

Key events			

07/12/2001	Legislative proposal published	COM(2001)0729	Summary
12/12/2001	Debate in Council	2399	
13/12/2001	Committee referral announced in Parliament, 1st reading		
04/03/2002	Debate in Council	2413	
25/06/2002	Debate in Council	2439	Summary
09/07/2002	Vote in committee, 1st reading		Summary
09/07/2002	Committee report tabled for plenary, 1st reading	A5-0261/2002	
02/09/2002	Debate in Parliament		
03/09/2002	Decision by Parliament, 1st reading	T5-0390/2002	Summary
06/03/2003	Council position published	14843/1/2002	Summary
13/03/2003	Committee referral announced in Parliament, 2nd reading		
22/05/2003	Vote in committee, 2nd reading		Summary
22/05/2003	Committee recommendation tabled for plenary, 2nd reading	A5-0200/2003	
01/07/2003	Debate in Parliament		
02/07/2003	Decision by Parliament, 2nd reading	T5-0318/2003	Summary
29/09/2003	Parliament's amendments rejected by Council		
04/12/2003	Report tabled for plenary, 3rd reading	A5-0006/2004	
09/01/2004	Joint text approved by Conciliation Committee co-chairs	3697/2003	
26/01/2004	Decision by Council, 3rd reading		
28/01/2004	Debate in Parliament		
29/01/2004	Decision by Parliament, 3rd reading	T5-0047/2004	Summary
11/02/2004	End of procedure in Parliament		
12/02/2004	Final act signed		
18/02/2004	Final act published in Official Journal		
10/12/2004	Final decision by Conciliation Committee		
04/11/2009	Formal meeting of Conciliation Committee		

Technical information

Procedure reference	2001/0291(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive

	Amending Directive 94/62/EC 1992/0436(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095-p2
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/19800

Documentation gateway

Legislative proposal	COM(2001)0729 , OJ C 103 30.04.2002, p. 0017 E	07/12/2001	EC	Summary
Economic and Social Committee: opinion, report	CES0681/2002 OJ C 221 17.09.2002, p. 0031	29/05/2002	ESC	
Committee report tabled for plenary, 1st reading/single reading	A5-0261/2002	09/07/2002	EP	
Text adopted by Parliament, 1st reading/single reading	T5-0390/2002 OJ C 272 13.11.2003, p. 0030-0287 E	03/09/2002	EP	Summary
Council statement on its position	05872/2003	07/02/2003	CSL	
Council position	14843/1/2002 OJ C 107 06.05.2003, p. 0017-0025 E	06/03/2003	CSL	Summary
Commission communication on Council's position	SEC(2003)0297	07/03/2003	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	A5-0200/2003	22/05/2003	EP	
Text adopted by Parliament, 2nd reading	T5-0318/2003 OJ C 074 24.03.2004, p. 0100-0633 E	02/07/2003	EP	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2003)0536	10/09/2003	EC	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	A5-0006/2004	04/12/2003	EP	
Joint text approved by Conciliation Committee co-chairs	3697/2003	09/01/2004	CSL/EP	
Text adopted by Parliament, 3rd reading	T5-0047/2004 OJ C 096 21.04.2004, p. 0020-0106 E	29/01/2004	EP	Summary

Additional information

European Commission	EUR-Lex
---------------------	-------------------------

Final act

Directive 2004/12 OJ L 047 18.02.2004, p. 0026-0031 Summary
--

Packaging and packaging waste: recovery and recycling of waste

signed in 1994 the Packaging and Packaging Waste Directive aims to offer a high level of environmental protection combined with the need to avoid distortions in the internal market. Under the legal provisions of the Directive, the Commission is obliged to propose new targets for recovery and recycling for the next five years no later than six months before the end of the first five-year phase. Hence, the proposed revision is limited to the establishment of recovery and recycling targets to be achieved by 30 June 2006 and a clarification of the definition used for this purpose. As yet, no changes are foreseen relating to the other aspects of the Directives, such as prevention, reuse, producer responsibility or the New Approach. These will be the subject of discussions under the 6th Environmental Action Programme. Specifically, the proposed revision includes the following measures: - The definition of "packaging" has been clarified and set out in Annex I; - New references to "mechanical recycling", "chemical recycling" and "feedstock recycling" have been made; - New targets for recovery and recycling to be implemented no later than 30 June 2006 are: Between 60% as a minimum and 75% as a maximum by weight of packaging waste to be recovered; Between 55% as a minimum and 70% as a maximum by weight of packaging waste to be recycled; In terms of minimum recycling targets for material contained in packaging waste the following targets are set: 60% by weight for glass; 55% by weight for paper and board; 50% by weight for metals; 20% by weight for plastics, exclusively by mechanical and/or chemical recycling; - Greece, Ireland and Portugal may, in view of their specific situation, postpone the attainment of the targets referred to until the date of their own choice which shall be no later than 30 June 2009; - Industry will be obliged to identify and classify the nature of the packaging material used.?

Packaging and packaging waste: recovery and recycling of waste

Pending receipt of the European Parliament's Opinion, the Council established a general approach on the broad thrust of the amendment to Directive 94/62/EC on packaging and packaging waste, although without the support of the Belgian or Netherlands delegations. The Permanent Representatives Committee was instructed to examine the European Parliament's Opinion as soon as it was available so that the Council could adopt a common position. The text approved by the Council is based on a Presidency compromise and provides inter alia for: - 31 December 2008 as the general deadline for taking the measures needed to achieve the recycling targets, with an additional period of four years for Greece, Ireland and Portugal on account of their specific situation; - a maximum target of 80% for the recycling of packaging waste and no maximum target for recovery; - minimum targets for the recycling of materials contained in packaging waste: 60% for paper and board; 60% for glass; 50% for metals; 22,5% for plastics, counting exclusively material that is recycled back into plastics; 15% for wood. The amendment of the 1994 Directive follows from a provision whereby new targets are to be set for 2001-2006 and, subsequently, every five years.?

Packaging and packaging waste: recovery and recycling of waste

The committee adopted the report by Dorette CORBEY (PES, NL) amending the report under the codecision procedure (1st reading). It adopted a large number of amendments designed to reinforce the proposal, whose targets it felt were too modest. The committee wanted to raise the minimum target for recycling the "totality of packaging materials contained in packaging waste" from the Commission's proposed 55% to 65% (by weight) and to scrap maximum targets. To allow sufficient time for the measures to be put in place, it wanted the date for meeting the targets to be put back from 30 June 2006 to 31 December 2008 (the date set in the Spanish Council Presidency's compromise text). The committee also felt that, if the recycling targets were to be met, the active involvement of consumers should be encouraged through awareness campaigns and suitable information on the return, collection and recovery systems available and the meanings of markings on packaging. It also said that the generation of packaging waste should be cut by 10% from 1998 levels and that Member States should ensure that, after 1 January 2004, new packaging - for both new and existing products - was only placed on the market if producers had taken all necessary measures to minimise its environmental impact whilst not compromising its "essential functions". The report said that companies must be able to show that they had complied with the legislation and Member States should provide incentives for using materials derived from recycling packaging waste. The committee also inserted a requirement for the eco-friendly design of packaging and wanted a broader revision of the directive, linked to the 6th Environment Action Programme and the work on an Integrated Product Policy, to be presented by 1 January 2005. Other amendments sought to reduce the hazardousness of packaging waste. Member States should ensure that, by 31 December 2006, new packaging and parts of packaging did not contain lead, cadmium, mercury or hexavalent chromium. Lastly, the committee adopted a number of amendments to the Annex defining what did or did not constitute packaging. It said, for example, that gift wrapping paper should not constitute packaging if it was sold as a separate product and that flower pots should not count as packaging unless they were added immediately prior to sale. ?

Packaging and packaging waste: recovery and recycling of waste

The European Parliament adopted a resolution on the Commission's proposal for packaging waste, based on the report by Dorette CORBEY (PES, NL). (Please refer to the document dated 09/07/02.) Parliament did not adopt the Environment Committee's amendment calling for the amount of packaging waste generated to be cut by 10% compared to 1998 levels. It added to the list of things defined as packaging promotional CD and video cases. Those items that do not constitute packaging include commercial durable CD and video cases, and the release paper of self-adhesive labels. Parliament added that where competent authorities have reason to believe that packaging has not been produced in accordance with the essential requirements set out in the directive, they have the power to require a prompt demonstration of compliance in a full and transparent way. Finally, Parliament stated that the export of packaging waste to third countries might not count for the achievements of the targets set out. ?

Packaging and packaging waste: recovery and recycling of waste

On the basis on a cost-benefit analysis the Commission has proposed the limited revision of Directive 94/62/EC described under point II above, thus not proposing to undertake a broader revision at this point in time. The Council has, in general, accepted this limited approach at this stage while emphasising a number of elements which should be considered in the coming report on the progress of the implementation and impact of the Directive on the environment as well as on the functioning of the internal market. This report should be able to serve as a basis for a broader revision. Against that background, the main points of the common position, in addition to the requirements to the above

mentioned report and a coming revision, are the following: 1) The Council finds that the definition of "packaging", which is already established in Directive 94/62/EC shall be further based on three supplementary criteria, which are accompanied by certain non-binding illustrative examples set out in an Annex. These supplementary criteria, as well as the non-binding illustrative examples, should help in the practical work when deciding what constitutes packaging and what is not packaging. Technical adaptation of the illustrative examples may be needed and can be initiated according to the relevant procedure. 2) The new definitions concerning recycling proposed by the Commission, which aim to distinguish between mechanical, chemical and feedstock recycling, have not been accepted since this is considered to be premature so long as newer forms of recycling are not yet fully developed. 3) With regard to the revision of targets, the Council agreed on an increase to 60% of the minimum target for recovery of packaging waste, but without a maximum target which is no longer considered necessary to ensure the functioning of the internal market. Furthermore, the Council has agreed on an increase to 55% of the minimum target for recycling of packaging waste with the maximum target being increased to 80%. It was also agreed to establish specific minimum recycling targets for certain materials contained in packaging waste (glass, paper and board, metals, plastics recycled into plastics and wood). In connection with these increases of the targets it was decided to establish a somewhat longer timeframe than proposed by the Commission for Member States to reach the increased targets, namely a general deadline by 31 December 2008 and a special deadline four years later for the three Member States which were also granted this amount of additional time under Directive 94/62/EC that is Greece, Ireland and Portugal. Concerning the European Parliament amendments, 16 of these have been incorporated, either verbatim, in part or in spirit, into the Council's common position. The Council considers that its common position takes account of the Opinion of the European Parliament in first reading to an important extent and wherever possible on the basis of the approach of a limited revision, with a feasible increase of certain targets at this stage coupled with requirements for the coming broader revision. The Council's common position represents a balanced solution for a focused amendment of the Directive and, within that line of ambition, ensures an environmental benefit to be derived from the new targets while making requirements on industry which are practically feasible and while also maintaining the internal market safeguards necessary in this field.?

Packaging and packaging waste: recovery and recycling of waste

The Council adopted a Common Position on 6 March 2003 by qualified majority. The Commission supports the Common Position. In particular, the Commission welcomes the limitation of this revision to the recovery and recycling targets and the refinement of the definition of packaging. Other issues should be first studied and discussed with stakeholders before further steps are taken.?

Packaging and packaging waste: recovery and recycling of waste

The committee adopted the report by Dorette CORBEY (PES, NL) amending the Council's common position under the 2nd reading of the codecision procedure. It reinstated a number of key amendments, sometimes in modified form, adopted by Parliament at 1st reading: - on recovery and recycling targets, it proposed to maintain the overall minimum recycling targets of the common position. However, it wanted to delete the maximum overall target the Council was proposing for recycling (80%) and proposed bringing forward the time frame, thus: overall target for recovery of packaging waste: 60% as a minimum by weight no later than 31 December 2006, overall target for recycling of packaging waste: 55% as a minimum by weight no later than 31 December 2006, material-specific targets for recycling of packaging waste no later than 31 December 2006 (by weight): glass - 60%; paper and board - 60%; metals - 50%; plastics - 22.5%; wood - 15%. The amendment stipulated that recycling of biodegradable plastics by composting may be counted towards achieving the plastics recycling target. Moreover, Member States shall ensure that these targets reflect the differing environmental costs and benefits and may also set targets for other materials; - the Commission's original proposal to give Greece, Ireland and Portugal an extension of the deadline only until 30 June 2009 (rather than until 31 December 2012) should be reinstated; - the directive should be implemented by the future Member States. The deadline for achieving the recovery and recycling targets for these States would have to be dealt with at a later stage, preferably with the involvement of the representatives of these Member States and their members in the European Parliament; - with effect from 1 January 2004 new packaging may only be put on the market if the producer has sought to minimise its environmental impact as far as possible without compromising the essential functions of the packaging. This applies to new packaging for both new and existing products. Member States must also ensure that other preventive measures are put into effect, such as national programmes; - packaging waste exported from the Community may only count towards targets if the exporter can prove the recovery or recycling operation met the same conditions as those laid down by Community law; - as regards exemptions to the directive, such items as flower pots and CD and video cases should be classified as packaging unless they are an integral part of a "durable product that is necessary to contain, support or preserve that product". For example, CD and video cases for short-term use will be regarded as packaging but flower pots will not, unless they are added just to assist sales. Wrapping and gift paper sold as a separate product should also be exempt. The Commission should, as soon as practicable, examine and where necessary review the illustrative examples on the definition of packaging set out in the Annex.?

Packaging and packaging waste: recovery and recycling of waste

The European Parliament adopted a few of the amendments in the report drafted by Dorette CORBEY (PES, NL). These include the following: - as regards exemptions to the directive, CD and video cases for short-term use will be regarded as packaging but flower pots will not if they stay with the plant for a significant part of its life. Wrapping and gift paper sold as a separate product should also be exempt. The Commission should, as soon as practicable, examine and where necessary review the illustrative examples on the definition of packaging set out in the Annex; - discrimination against materials on the basis of their weight should be avoided; - the Commission must present proposals by 30 June 2005 to strengthen enforcement and ensure new packaging is only put on the market if the producer has sought to minimise its environmental impact as far as possible without compromising the essential functions of the packaging. Member States must also ensure that other preventive measures are put into effect, such as national programmes; - the directive should be implemented by the future Member States. The deadline for achieving the recovery and recycling targets for these States is 18 months after the entry into force of the Directive; - the Commission will determine necessary measures to deal with any difficulties encountered in applying the provisions of this Directive, in particular to quantities of which do not exceed 0.1% of all packaging put on the EU market, such as pharmaceutical products and small packaging; - there are provisions on transposing parts of the Directive by means of agreements between competent authorities and the economic sectors concerned, provided the agreements meet certain requirements.?

Packaging and packaging waste: recovery and recycling of waste

Of the 12 amendments adopted by the European Parliament, the Commission can accept 5 in full, 2 in principle and 3 in part. The remaining two amendments cannot be accepted. The Commission notes that there is now a high degree of agreement between the Parliament and the Council. The position of the Commission aims to facilitate a rapid resolution of the outstanding issues. The Commission agrees to the following amendments: - a recital on the encouragement of environmentally sound recycling processes; - a recital on the provision of annual data on packaging; - a recital on the need to avoid discrimination against materials on the basis of their weight; - an amendment adding certain inert packaging materials to the list of packaging items for which implementation problems can be addressed through technical adaptation; - a reference to certain elements of the 6th Environment Action Programme added to the list of issues to be considered in a Commission report foreseen for June 2005; - an amendment stating that the addition of new elements to the conditions under which an item, despite having a packaging function, is nevertheless not considered packaging. The Commission proposes a different formulation for the sake of clarity. It states that the new definition also covers short-lived items such as sausage skins. Restricting the exemption from the term "packaging" to durable items could be interpreted in a way that sausage skins and similar items would be classified as packaging; - the amendment to the effect that measures to prevent packaging waste may, in addition to an existing list of options, consist of projects to introduce producer responsibility; - standards promoted by the Commission will aim to minimise the environmental impact of packaging; - advancing the deadlines for Greece, Ireland and Portugal is accepted to a limited extent; - on elements to be reviewed in a Commission report, the evaluation of different recycling methods should be done in horizontal waste legislation, as this also concerns other waste streams. Those amendments not accepted by the Commission include the following: - the deadline for the implementation of the new targets in the Accessing States shall be determined by a new proposal under Article 251 of the Treaty. The Commission cannot accept this amendment, as it affects its right of initiative; - adding "tubes and cylinders around which flexible material is wound" and "release paper of self-adhesive labels" to a list of examples of non-packaging contradicts Article 3 of the Directive. This article defines packaging as items which are used for the containment, protection, handling, delivery and presentation of goods. As both the tubes and the release paper are used for these purposes, they are packaging according to this definition and cannot be an example for non-packaging. The Commission can in principle accept the addition of "CD and video cases for short-term use" and of "wrapping and gift paper sold as a separate product" as well as the new formulation on flower pots. However, the Commission considers that, in case of doubt, this matter should be discussed by technical experts within the framework of the procedure; - the obligation for the Commission and the Member States to encourage the initiation and evaluation of pilot projects in order to base that report on practical experience. This risks duplicating efforts and will depend on the availability of resources. The Commission suggests a looser form of words; - the obligation to present, by 30 June 2005, proposals to strengthen and complement the enforcement of the essential requirements is rejected, since it affects the Commission's right of initiative.?

Packaging and packaging waste: recovery and recycling of waste

The European Parliament voted to approve the joint text agreed by the Conciliation Committee on reducing packaging waste. Under the terms of the agreement, the amount of discarded packaging that pollutes the environment will be cut, and there will be an increase in the recycling of packaging waste, raising the minimum recycling target for such waste from 25% to 55% by 2008. Parliament's delegation had sent a clear signal of support by voting in favour of the agreement by 12 votes to 1 with 0 abstentions. Three key issues were discussed during the conciliation process. - Derogations to targets : The first issue was the latest dates by which those countries granted a postponement must meet certain targets for waste recovery and recycling. This concerns Member States that have less effective schemes, such as Greece, Ireland and Portugal. They must, no later than 30 June 2001, at least attain 25% for recovery or incineration at waste incineration plants with energy recovery. Certain targets may be postponed to a deadline no later than 31 December 2005. Other targets, such as those relating to recycling of glass and metals may be postponed until a date not later than 31 December 2011. - The accession countries : Another point was how best to address the question of the attainment of the targets for the accession countries and which legal base to apply. Parliament's view was that the dates should be decided by Parliament and Council under the codecision procedure. However, the Council insisted on Article 57 of the Accession Treaty, under which Member States could decide, by a qualified majority vote, to amend the directive in this respect without consulting Parliament. The final agreement adds two recitals to the directive, in which Parliament, Council and Commission agree on the need for temporary derogations for the accession countries with respect to targets set by the directive. These derogations are to be determined by the appropriate legal procedure on the basis of requests already submitted by the acceding states. The dates requested are as follows: 2012 for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Slovakia and Slovenia; 2013 for Malta; 2014 for Poland and 2015 for Latvia. - Implications of recent Court judgments : The third issue concerned the scope of the directive. The committee discussed whether incineration of packaging waste should count as "recovery"? Recent judgments by the European Court of Justice stated that incineration of municipal waste in incinerators is to be regarded as a disposal operation if the main purpose of the operation is to dispose of the waste. As a result of these judgments, packaging waste incinerated in such installations could no longer be counted towards the recovery targets of the Packaging Directive. Consequently, in order to reach agreement the Parliament and Council clarified the word "recovery" in the light of the Court's judgment. Whereas the 1994 Directive calls for packaging waste to be "recovered", the revised law will now read "to be recovered or incinerated at waste incineration plants with energy recovery", thereby broadening the definition of what is understood by "recovery" in this context. In addition, a tripartite statement has been added, in which all three institutions undertake to review this issue at the earliest opportunity. The Commission also intends to "propose amendments as appropriate to the relevant legislation".?

Packaging and packaging waste: recovery and recycling of waste

PURPOSE : To amend Directive 94/62/EC on packaging and packaging waste. **LEGISLATIVE ACT :** Directive 2004/12/EC of the European Parliament and of the Council amending Directive 94/62/EC on packaging waste. **CONTENT :** The provisions outlined in this Directive increase and reinforce the recycling and recovery targets originally set out in the 1994 Directive on Packaging and Packaging Waste. In addition the definition of "packaging" is clarified. Temporary derogations are foreseen for Ireland, Portugal and Greece. Similarly, the acceding Member States have been awarded temporary derogations. In essence, the following points amend the 1994 Directive: Firstly, the definition of "packaging" is enhanced. Annex I lists illustrative examples of what may or may not constitute "packaging." Thus, for example, the film around a CD box is "packaging", whilst tool boxes or wax around cheese is not. Secondly, on the question of "prevention" Member States should ensure that preventable measures for the production of packaging and packaging waste are implemented. This may take the form of national programmes and/or projects to introduce producer responsibility to minimise the environmental impact. The European Commission will assist

the Member States in this task by developing suitable European standards. In addition, the Commission will present proposals for measures ensuring that producers have taken all the necessary measures to minimise the environmental impact of a product. Thirdly, new targets are set for the recovery and recycling of waste. They are: - No later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery. - No later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery. - No later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material. - No later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled. - No later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained: -60% by weight for glass; -60% by weight for paper and board; -50% by weight for metals; -22.5% by weight for plastics, counting exclusively material that is recycled back into plastics; -15% by weight for woods. Fourthly, Greece, Ireland and Portugal have been given temporary derogations and are free to choose the date of implementing the targets outlined above - but the date must be no later than 31 December 2011. The Commission is asked to prepare a report by 2005 on the implementations of the Directive and its impact on the environment. Lastly, requirements are also made for scientific and technical progress. In this matter the European Commission will be assisted by a Committee. ENTRY INTO FORCE: 18/02/2004. IMPLEMENTATION: 18/08/05.?