

Packaging and the Environment: A Regulation Update

Paul Fielding, Bristol, UK
Du Pont Nonwovens



Photodisc Inc

This article reports on the progress that is being made on standards and associated documents to support the Packaging and Packaging Waste Directive.¹ Potential revisions are also discussed.

Implementing the Directive

The Packaging and Packaging Waste Directive has continued to be the subject of much debate and activity since its introduction in 1994. All Member States now have legislation in place that is intended to ensure they meet the targets of the Directive. These targets require that by 30 June 2001 Member States should be recovering 50–65% of their packaging waste and recycling 25–45%, with a minimum of 15% for each packaging material. Most companies meet their obligations by being members of compliance schemes such as Valpak in the United Kingdom (UK) and Eco Emballages in France. These organizations assume responsibility for each company's obligations by using the company's own waste or, more often, by obtaining and recycling packaging waste from other sources. These schemes make it difficult to judge how successfully companies are meeting the requirements of the Directive on a company scale; it is also difficult to assess this on a national level. Some Member States, for example, Austria, Belgium and The Netherlands, believe they are doing well, while others, including the UK, are still gathering data, but are less confident.

Recently the efforts of the working groups of TC 261 SC 4, within the European standards body CEN, have concentrated on legislation to satisfy the essential requirements of the Directive and the standards and reports compiled by CEN.

Recovery and recycling

One of the main aims of the Directive was to avoid barriers to trade that would be created if Member States introduced different requirements. This has generally been achieved, apart from a few notable exceptions such as the Danish can ban. In this case, other Member States objected to Denmark's decision to ban single-trip cans in favour of reusable bottles on the grounds that it favoured local producers within a fairly small area, because reuse requires collection and return of used bottles. Nevertheless, the approach to the Directive has varied from State to State. In the case of health care, some Member States, including the UK and Germany, consider that virtually all primary medical packaging should be included, while others, including France and Sweden, do not. The issue of exemption is discussed later in this article. Many recovery and recycling schemes have been in place for some time, and the authorities have gained experience in operating them. They are now using this knowledge to develop the schemes further. For example, the UK introduced amendments to its Producer Responsibility Obligations (Packaging Waste) Regulations at the beginning of 2000. These include a revision of the percentage recovery and recycling obligations for members of the packaging chain; for example, the obligation on converters is reduced from 11% to 9%, the obligation on packers and fillers has risen →

Cet article nous décrit les progrès qui ont été faits en matière des normes et des documents associés pour appuyer la Directive relative aux conditionnements et aux déchets de conditionnements.¹ Il parle également d'autres révisions éventuelles.

Der Artikel berichtet über die Fortschritte, die hinsichtlich der Normen und den hiermit zusammenhängenden Dokumenten zur Stützung der Richtlinie über Verpackungsmaterialien und Verpackungsabfälle gemacht wurden.¹ Zudem werden potentielle Revisionen diskutiert.

→ by 1% to 37%, the obligation on sellers increases from 47% to 48%, and the obligation on wholesalers to recycle has been removed.

There are also changes in the requirements for Packaging Recovery Notes (PRNs), the certificates that are issued as proof that a material has been recycled. Companies that carry out recovery or recycling (reprocessors) are permitted to sell PRNs to obligated businesses and compliance schemes, but reprocessors must now offer PRNs to organizations that supply packaging waste to them before they place the PRNs on the open market. In an attempt to stabilize the market for PRNs, obligated businesses and compliance schemes are required to obtain a proportion of their PRNs every quarter rather than wait until the end of the year.²

Beating the targets

Some countries have announced that they wish to aim for levels that exceed the Directive's maximum limits of 65% for recovery and 45% for recycling. The European Commission has granted requests from Austria, Belgium and The Netherlands to raise their targets. These decisions are based on its assessment that these States have sufficient capacity to meet their own higher targets without distorting the internal market or hampering the compliance of other Member States by placing added strain on their facilities or discriminating against imported waste. An application from Denmark to exceed its recovery target is under consideration. Germany also has targets that are above those set in the Directive, but has not applied for a derogation and, with the imminent revision of the Directive, appears unlikely to do so because it believes that the limits will be changed. Although the UK has slightly increased this year's figures for obligated businesses, it does not intend to revise its original plans that by June 2001 they will be recovering at least 52%, recycling at least 26%, and the material-specific targets will be 16%.

Satisfying the essential requirements

The Directive sets out to reduce the impact of packaging on the environment by seeking to

- reduce the amount of packaging used, by weight or volume
- encourage the recovery of materials by recycling, incineration with energy recovery and composting or biodegradation
- encourage the use of reusable packaging
- reduce the amount of packaging going to landfill
- reduce or eliminate the presence of noxious or hazardous substances in emissions and ash from incineration,

and leachate from landfill.

The UK introduced the "Packaging (Essential Requirements) Regulations" in 1998. Guidance notes were subsequently published in August 1998 and July 1999.³ These are intended to help those placing packaged goods on the market ensure that the packaging materials meet the essential requirements of the Directive. France has also been trying to implement the essential requirements of the Directive in the absence of CEN standards. It is too early to say whether either country has been successful. Most other Member States have done very little. In the absence of CEN standards, they either have done nothing at all, or have simply introduced regulations that restate the essential requirements and have made little attempt to enforce them.

The CEN standards that will provide guidance on how to meet the essential requirements are expected to be issued for formal inquiry in the near future.

The dispute between CEN and DG XI over the structure and content of the standards remains unresolved.

Standards progress

There are five standards covering requirements for source reduction, reuse, recycling, incineration with energy recovery, and composting and biodegradation. All the standards received a positive vote at the CEN inquiry stage. Copies can be obtained from national standards organizations. There is also a two-part report on heavy metals and other dangerous substances. Last, but not least, there is a sixth standard, often known as the "Umbrella standard," which explains the relationship between the other standards and reports and provides a structured approach to their use.

Unfortunately, the dispute between CEN and DG XI, the environmental arm of the European Commission, over the structure and content of the standards remains unresolved. CEN has made a number of changes to the standards, based on advice from David Perchard, the CEN consultant charged with assessing whether the standards meet the mandates. DG XI does not accept his conclusion, but has been waiting until the standards are available for the formal vote before deciding what action to take. The Commission cannot prevent the adoption of the standards, but if the Commission and/or Member States consider that they do not entirely meet the essential requirements, they may refer the matter to the Committee set up under Directive 98/34, according to Article 9(4) of the Directive on Packaging and Packaging Waste. →

→ One of the key demands from DG XI was that all noxious and hazardous substances should be specifically identified. The initial CEN report only dealt with four heavy metals: cadmium, lead, mercury and hexavalent chromium. To address DG XI's concerns, CEN prepared a second part to the report. This identified noxious and hazardous substances as being those referenced in the Dangerous Substances (DS) Directive (67/548/EEC). Although DG XI was happy with this approach, it expressed concern that these requirements were contained in a report rather than a mandated standard. To overcome this objection CEN

- made reference to the DS Directive in Section 8 of the first part of the report.

- included the methodology and assessment procedures contained in Sections 9 and 10 of the second part of the report in the source reduction standard; this information is contained in a Normative Annex.

Revision of the Directive

One major issue that has remained unresolved concerns the basic philosophy of the standards. They contain a structured approach that is intended to assist those involved in placing packaged goods on the market to ensure that the packaging will meet the essential requirements. DG XI's expectation was that the standards would contain easy pass/fail criteria that would determine whether a packaging material should be removed from the market. CEN, however, believes that this is not practicable and has spent a lot of time trying to convince DG XI, the Article 21 committee and other DGs of this fact. Although it is not happy with the situation, DG XI now appears ready to accept that the real problem lies with the way in which the Directive was drafted rather than the CEN standards, and there is no sign that the situation will be resolved.

Discussions have been taking place for some time concerning what changes, if any, should be made when the Directive comes up for review in 2001. Although a number of proposals have been put forward by the Waste Management Unit of DG XI, it now appears that the only one still under serious discussion is whether or not to change the targets for recovery and recycling. Member States are split on this issue. Some believe that it is necessary to gather more information on how the Directive is being implemented and assess the financial and/or environmental costs–benefits, although others wish to take action to increase the targets before this type of activity is completed.

Medical packaging

EUCOMED, the European medical device industry association, and the European Sterilization Packaging Association (ESPA) are continuing to lobby for primary medical packaging to be exempted from the recovery and recycling obligations of the Directive. They argue that it should not be considered as packaging because it is either an integral part of a sterile medical device or an accessory to it. Without its primary packaging, a device cannot be

purchased and used for its intended application. It is difficult to predict whether this approach will be successful. Certainly, they believe that they are correct and view it only as a matter of time before they convince the authorities of this fact.

References

1. Packaging and Packaging Waste Directive (94/62/EC) December 1994.
2. Enquiries can be addressed to the UK Government's Environmental Helpline, tel. +44 (0)800 585 794.
3. For copies of the guidance notes write to DTI Publications Orderline, Admail 528, London SW1W 8YT, UK. [mdt](#)

Paul Fielding

is Packaging Consultant for Du Pont Nonwovens, Luxembourg, Luxembourg, Chairman of the ESPA Technical Committee and is a member of various other medical packaging committees, including CEN TC 261 SC 4.

3 Druid Road, Stoke Bishop, Bristol BS9 1LJ, UK,
tel./fax +44 (0)117 968 2424,
e-mail: paul.fielding@medpackfreeserve.co.uk