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► **B** **EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/62/EC**
 of 20 December 1994
 on packaging and packaging waste
 (OJ L 365, 31.12.1994, p. 10)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003	L 284	1	31.10.2003
► <u>M2</u>	Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004	L 47	26	18.2.2004
► <u>M3</u>	Directive 2005/20/EC of the European Parliament and of the Council of 9 March 2005	L 70	17	16.3.2005



**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/62/
EC
of 20 December 1994
on packaging and packaging waste**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas the differing national measures concerning the management of packaging and packaging waste should be harmonized in order, on the one hand, to prevent any impact thereof on the environment or to reduce such impact, thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Community;

Whereas the best means of preventing the creation of packaging waste is to reduce the overall volume of packaging;

Whereas it is important, in relation of the objectives of this Directive, to respect the general principle that measures taken in one Member State to protect the environment should not adversely affect the ability of other Member States to achieve the objectives of the Directive;

Whereas the reduction of waste is essential for the sustainable growth specifically called for by the Treaty on European Union;

Whereas this Directive should cover all types of packaging placed on the market and all packaging waste; whereas; therefore, Council Directive 85/339/EEC of 27 June 1985 on containers of liquids for human consumption ⁽⁴⁾ should be repealed;

Whereas packaging has a vital social and economic function and therefore measures provided for in this Directive should apply without prejudice to other relevant legislative requirements affecting quality and transport of packaging or packaged goods;

Whereas, in line with the Community strategy for waste management set out in Council resolution of 7 May 1990 on waste policy ⁽⁵⁾ and Council Directive 75/442/EEC of 15 July 1975 on waste ⁽⁶⁾, the management of packaging and packaging waste should include as a first priority, prevention of packaging waste and, as additional fundamental principles, reuse of packaging, recycling and other forms of recovering packaging waste and, hence, reduction of the final disposal of such waste;

Whereas, until scientific and technological progress is made with regard to recovery processes, reuse and recycling should be considered

⁽¹⁾ OJ No C 263, 12. 10. 1992, p. 1 and OJ No C 285, 21. 10. 1993, p. 1.

⁽²⁾ OJ No C 129, 10. 5. 1993, p. 18.

⁽³⁾ Opinion of the European Parliament of 23 June 1993 (OJ No C 194, 19. 7. 1993, p. 177), common position of the Council of 4 March 1994 (OJ No C 137, 19. 5. 1994, p. 65) and Decision of the European Parliament of 4 May 1994 (OJ No C 205, 25. 7. 1994, p. 163). Confirmed on 2 December 1993 (OJ No C 342, 20. 12. 1993, p. 15). Joint text of the Conciliation Committee of 8 November 1994.

⁽⁴⁾ OJ No L 176, 6. 7. 1985, p. 18. Directive as amended by Directive 91/629/EEC (OJ No L 377, 31. 12. 1991, p. 48).

⁽⁵⁾ OJ No C 122, 18. 5. 1990, p. 2.

⁽⁶⁾ OJ No L 194, 25. 7. 1975, p. 39. Directive as last amended by Directive 91/156/EEC (OJ No L 78, 26. 3. 1991, p. 32).

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preferable in terms of environmental impact; whereas this requires the setting up in the Member States of systems guaranteeing the return of used packaging and/or packaging waste; whereas life-cycle assessments should be completed as soon as possible to justify a clear hierarchy between reusable, recyclable and recoverable packaging;

Whereas prevention of packaging waste shall be carried out through appropriate measures, including initiatives taken within the Member States in accordance with the objectives of this Directive;

Whereas Member States may encourage, in accordance with the Treaty, reuse systems of packaging which can be reused in an environmentally sound manner, in order to take advantage of the contribution of such systems to environmental protection;

Whereas from an environmental point of view recycling should be regarded as an important part of recovery with a particular view to reducing the consumption of energy and of primary raw materials and the final disposal of waste;

Whereas energy recovery is one effective means of packaging waste recovery;

Whereas targets set in Member States for the recovery and recycling of packaging waste should be confined within certain ranges so as to take account of the different situations in Member States and to avoid creating barriers to trade and distortion of competition;

Whereas, in order to achieve results in the medium term and to give economic operators, consumers and public authorities the necessary perspective for the longer term, a medium-term deadline should be set for attaining the aforementioned targets and a long-term deadline set for targets to be determined at a later stage with a view to substantially increasing those targets;

Whereas the European Parliament and the Council should, on the basis of reports by the Commission, examine the practical experience gained in Member States in working towards the aforementioned targets and the findings of scientific research and evaluation techniques such as eco-balances;

Whereas Member States which have, or will set, programmes going beyond such target ranges should be permitted to pursue those targets in the interest of a high level of environmental protection on condition that such measures avoid disturbances on the internal market and do not prevent other Member States from complying with this Directive; whereas the Commission should confirm such measures after appropriate verification;

Whereas, on the other hand, certain Member States may be allowed to adopt lower targets because of the specific circumstances in those Member States, on condition that they achieve a minimum target for recovery within the standard deadline, and the standard targets by a later deadline;

Whereas the management of packaging and packaging waste requires the Member States to set up return, collection and recovery systems; whereas such systems should be open to the participation of all interested parties and be designed to avoid discrimination against imported products and barriers to trade or distortions of competition and to guarantee the maximum possible return of packaging and packaging waste, in accordance with the Treaty;

Whereas the issue of Community marking of packaging requires further study, but should be decided by the Community in the near future;

Whereas, in order to minimize the impact of packaging and packaging waste on the environment and to avoid barriers to trade and distortion of competition, it is also necessary to define the essential requirements governing the composition and the reusable and recoverable (including recyclable) nature of packaging;

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Whereas the presence of noxious metals and other substances in packaging should be limited in view of their environmental impact (in particular in the light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled); whereas it is essential, as a first step towards reducing the toxicity of packaging waste, to prevent the addition of noxious heavy metals to packaging and ensure that such substances are not released into the environment, with appropriate exemptions which should be determined by the Commission in specific cases under a Committee procedure;

Whereas, if a high level of recycling is to be attained and health and safety problems are to be avoided by those employed to collect and process packaging waste, it is essential for such waste to be sorted at source;

Whereas the requirements for the manufacturing of packaging should not apply to packaging used for a given product before the date of entry into force of this Directive; whereas a transition period for the marketing of packaging is also required;

Whereas the timing of the provision on the placing on the market of packaging which meets all essential requirements should take account of the fact that European standards are being prepared by the competent standardization body; whereas, however, the provisions on means of proof of conformity of national standards should apply without delay;

Whereas the preparation of European standards for essential requirements and other related issues should be promoted;

Whereas the measures provided for in this Directive imply the development of recovery and recycling capacities and market outlets for recycled packaging materials;

Whereas the inclusion of recycled material in packaging should not contradict relevant provisions on hygiene, health and consumer safety;

Whereas Community-wide data on packaging and packaging waste are needed in order to monitor the implementation of the objectives of this Directive;

Whereas it is essential that all those involved in the production, use, import and distribution of packaging and packaged products become more aware of the extent to which packaging becomes waste, and that in accordance with the polluter-pays principle they accept responsibility for such waste; whereas the development and implementation of the measures provided for in this Directive should involve and require the close cooperation of all the partners, where appropriate, within a spirit of shared responsibility;

Whereas consumers play a key role in the management of packaging and packaging waste and thus have to be adequately informed in order to adapt their behaviour and attitudes;

Whereas the inclusion of a specific chapter on the management of packaging and packaging waste in the waste management plans required pursuant to Directive 75/442/EEC will contribute to the effective implementation of this Directive;

Whereas, in order to facilitate the achievement of the objectives of this Directive, it may be appropriate for the Community and the Member States to use economic instruments in accordance with the provisions of the Treaty, so as to avoid new forms of protectionism;

Whereas Member States should, without prejudice to Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾, notify the Commission of drafts of any measures they intend to adopt before adopting them, so that it can be established whether or not they comply with the Directive;

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 92/400/EEC (OJ No L 221, 6. 8. 1992, p. 55).

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Whereas the adaptation to scientific and technical progress of the packaging identification system and the formats relating to a database system should be ensured by the Commission under a committee procedure;

Whereas it is necessary to provide for specific measures to be taken to deal with any difficulties encountered in the implementation of this Directive in accordance, where appropriate, with the same committee procedure,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

1. This Directive aims to harmonize national measures concerning the management of packaging and packaging waste in order, on the one hand, to prevent any impact thereof on the environment of all Member States as well as of third countries or to reduce such impact, thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Community.

2. To this end this Directive lays down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, hence, at reducing the final disposal of such waste.

Article 2

Scope

1. This Directive covers all packaging placed on the market in the Community and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.

2. This Directive shall apply without prejudice to existing quality requirements for packaging such as those regarding safety, the protection of health and the hygiene of the packed products or to existing transport requirements or to the provisions of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽¹⁾.

Article 3

Definitions

For the purposes of this Directive:

1. 'packaging' shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. 'Non-returnable' items used for the same purposes shall also be considered to constitute packaging.

'Packaging' consists only of:

- (a) sales packaging or primary packaging, i. e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) grouped packaging or secondary packaging, i. e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it

⁽¹⁾ OJ No L 377, 31. 12. 1991, p. 20.

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serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;

- (c) transport packaging or tertiary packaging, i. e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers.

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The definition of 'packaging' shall be further based on the criteria set out below. The items listed in Annex I are illustrative examples of the application of these criteria.

- (i) Items shall be considered to be packaging if they fulfil the abovementioned definition without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together.
- (ii) Items designed and intended to be filled at the point of sale and 'disposable' items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
- (iii) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

The Commission shall, as appropriate, in accordance with the procedure referred to in Article 21, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper;

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2. 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste in Directive 75/442/EEC, excluding production residues;
3. 'packaging waste management' shall mean the management of waste as defined in Directive 75/442/EEC;
4. 'prevention' shall mean the reduction of the quantity and of the harmfulness for the environment of:
 - materials and substances contained in packaging and packaging waste,
 - packaging and packaging waste at production process level and at the marketing, distribution, utilization and elimination stages,
 in particular by developing 'clean' products and technology;
5. 'reuse' shall mean any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such reused packaging will become packaging waste when no longer subject to reuse;

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6. 'recovery' shall mean any of the applicable operations provided for in Annex II.B to Directive 75/442/EEC;
7. 'recycling' shall mean the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;
8. 'energy recovery' shall mean the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;
9. 'organic recycling' shall mean the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane. Landfill shall not be considered a form of organic recycling;
10. 'disposal' shall mean any of the applicable operations provided for in Annex II.A to Directive 75/442/EEC;
11. 'economic operators' in relation to packaging shall mean suppliers of packaging materials, packaging producers and converters, fillers and users, importers, traders and distributors, authorities and statutory organizations;
12. 'voluntary agreement' shall mean the formal agreement concluded between the competent public authorities of the Member State and the economic sectors concerned, which has to be open to all partners who wish to meet the conditions of the agreement with a view to working towards the objectives of this Directive.

▼M2*Article 4***Prevention**

1. Member States shall ensure that, in addition to the measures to prevent the formation of packaging waste taken in accordance with Article 9, other preventive measures are implemented.

Such other measures may consist of national programmes, projects to introduce producer responsibility to minimise the environmental impact of packaging or similar actions adopted, if appropriate in consultation with economic operators, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention. They shall comply with the objectives of this Directive as defined in Article 1(1).

2. The Commission shall help to promote prevention by encouraging the development of suitable European standards, in accordance with Article 10. The standards shall aim to minimise the environmental impact of packaging in accordance with Articles 9 and 10.

3. The Commission shall, as appropriate, present proposals for measures to strengthen and complement the enforcement of the essential requirements and to ensure that new packaging is put on the market only if the producer has taken all necessary measures to minimise its environmental impact without compromising the essential functions of the packaging.

▼B*Article 5*

Member States may encourage reuse systems of packaging, which can be reused in an environmentally sound manner, in conformity with the Treaty.

▼ M2*Article 6***Recovery and recycling**

1. In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60 % by weight for glass;
 - (ii) 60 % by weight for paper and board;
 - (iii) 50 % by weight for metals;
 - (iv) 22,5 % by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15 % by weight for wood.

2. Packaging waste exported out of the Community in accordance with Council Regulations (EEC) No 259/93 ⁽¹⁾, (EC) No 1420/1999 ⁽²⁾ and Commission Regulation (EC) No 1547/1999 ⁽³⁾, shall only count for the achievement of the obligations and targets of paragraph 1 if there is sound evidence that the recovery and/or recycling operation took place under conditions that are broadly equivalent to those prescribed by the Community legislation on the matter.

3. Member States shall, where appropriate, encourage energy recovery, where it is preferable to material-recycling for environmental and cost-benefit reasons. This could be done by considering a sufficient margin between national recycling and recovery targets.

4. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by:

- (a) improving market conditions for such materials;
- (b) reviewing existing regulations preventing the use of those materials.

5. Not later than 31 December 2007, the European Parliament and the Council shall, acting by qualified majority and on a proposal from the Commission, fix targets for the third five-year phase 2009 until 2014, based on the practical experience gained in the Member States in pursuit of the targets laid down in paragraph 1 and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

This process shall be repeated every five years.

⁽¹⁾ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).

⁽²⁾ OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation (EC) No 2118/2003 (OJ L 318, 3.12.2003, p. 5).

⁽³⁾ OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2118/2003.

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6. The measures and targets referred to in paragraph 1 shall be published by the Member States and shall be the subject of an information campaign for the general public and economic operators.

7. Greece, Ireland and Portugal may, because of their specific situations, namely respectively the large number of small islands, the presence of rural and mountain areas and the current low level of packaging consumption, decide to:

- (a) attain, no later than 30 June 2001, lower targets than those fixed in paragraphs 1(a) and (c), but shall at least attain 25 % for recovery or incineration at waste incineration plants with energy recovery;
- (b) postpone at the same time the attainment of the targets in paragraphs 1(a) and (c) to a later deadline which shall not, however, be later than 31 December 2005;
- (c) postpone the attainment of the targets referred to in paragraphs 1(b), (d) and (e) until a date of their own choice which shall not be later than 31 December 2011.

8. The Commission shall, as soon as possible and no later than 30 June 2005, present a report to the European Parliament and the Council on the progress of the implementation of this Directive and its impact on the environment, as well as on the functioning of the internal market. The report shall take into account individual circumstances in each Member State. It shall cover the following:

- (a) an evaluation of the effectiveness, implementation and enforcement of the essential requirements;
- (b) additional prevention measures to reduce the environmental impact of packaging as far as possible without compromising its essential functions;
- (c) the possible development of a packaging environment indicator to render packaging waste prevention simpler and more effective;
- (d) packaging waste prevention plans;
- (e) encouragement of reuse and, in particular, comparison of the costs and benefits of reuse and those of recycling;
- (f) producer responsibility including its financial aspects;
- (g) efforts to reduce further and, if appropriate, ultimately phase out heavy metals and other hazardous substances in packaging by 2010.

This report shall, as appropriate, be accompanied by proposals for revision of the related provisions of this Directive, unless such proposals have, by that time, been presented.

9. The report shall address the issues in paragraph 8 as well as other relevant issues in the framework of the different elements of the Sixth Environmental Action Programme, in particular the thematic strategy on recycling and the thematic strategy on the sustainable use of resources.

The Commission and the Member States shall, as appropriate, encourage studies and pilot projects concerning points 8(b), (c), (d), (e) and (f) and other prevention instruments.

10. Member States which have, or will, set programmes going beyond the maximum targets of paragraph 1 and which provide to this effect appropriate capacities for recycling and recovery shall be permitted to pursue those targets in the interest of a high level of environmental protection, on condition that these measures avoid distortions of the internal market and do not hinder compliance by other Member States with this Directive. Member States shall inform the Commission of such measures. The Commission shall confirm these measures, after having verified, in cooperation with the Member States, that they are consistent with the abovementioned considerations and do not constitute an arbitrary means of discrimination or a disguised restriction on trade between Member States.

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11. Member States having acceded to the European Union by virtue of the Accession Treaty of 16 April 2003 may postpone the attainment of the targets referred to in paragraph 1(b), (d) and (e) until a date of their own choosing which shall not be later than 31 December 2012 for the Czech Republic, Estonia, Cyprus, Lithuania, Hungary, Slovenia and Slovakia; 31 December 2013 for Malta; 31 December 2014 for Poland; and 31 December 2015 for Latvia.

▼B*Article 7***Return, collection and recovery systems**

1. Member States shall take the necessary measures to ensure that systems are set up to provide for:

- (a) the return and/or collection of used packaging and/or packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives;
- (b) the reuse or recovery including recycling of the packaging and/or packaging waste collected,

in order to meet the objectives laid down in this Directive.

These systems shall be open to the participation of the economic operators of the sectors concerned and to the participation of the competent public authorities. They shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariffs imposed for access to the systems, and shall be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.

2. The measures referred to in paragraph 1 shall form part of a policy covering all packaging and packaging waste and shall take into account, in particular, requirements regarding the protection of environmental and consumer health, safety and hygiene; the protection of the quality, the authenticity and the technical characteristics of the packed goods and materials used; and the protection of industrial and commercial property rights.

*Article 8***Marking and identification system**

1. The Council shall, in accordance with the conditions laid down in the Treaty, decide no later than two years after the entry into force of this Directive on the marking of packaging.

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2. To facilitate collection, reuse and recovery including recycling, packaging shall indicate for the purposes of its identification and classification by the industry concerned the nature of the packaging material (s) used on the basis of Commission Decision 97/129/EC ⁽¹⁾.

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3. Packaging shall bear the appropriate marking either on the packaging itself or on the label. It shall be clearly visible and easily legible. The marking shall be appropriately durable and lasting, including when the packaging is opened.

*Article 9***Essential requirements**

1. Member States shall ensure that three years from the date of the entry into force of this Directive, packaging may be placed on the market only if it complies with all essential requirements defined by this Directive including Annex II.

⁽¹⁾ OJ L 50, 20.2.1997, p. 28.

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2. Member States shall, from the date set out in Article 22 (1), presume compliance with all essential requirements set out in this Directive including Annex II in the case of packaging which complies:

- (a) with the relevant harmonized standards, the reference numbers of which have been published in the *Official Journal of the European Communities*. Member States shall publish the reference numbers of national standards transposing these harmonized standards;
- (b) with the relevant national standards referred to in paragraph 3 in so far as, in the areas covered by such standards, no harmonized standards exist.

3. Member States shall communicate to the Commission the text of their national standards, as referred to in paragraph 2 (b), which they deem to comply with the requirements referred to in this Article. The Commission shall forward such texts forthwith to the other Member States.

Member States shall publish the references of these standards. The Commission shall ensure that they are published in the *Official Journal of the European Communities*.

4. Where a Member State or the Commission considers that the standards referred to in paragraph 2 do not entirely meet the essential requirements referred to in paragraph 1, the Commission or the Member State concerned shall bring the matter before the Committee set up by Directive 83/189/EEC giving the reasons therefor. This Committee shall deliver an opinion without delay.

In the light of the Committee's opinion, the Commission shall inform Member States whether or not it is necessary to withdraw those standards from the publications referred to in paragraphs 2 and 3.

Article 10

Standardization

The Commission shall promote, as appropriate, the preparation of European standards relating to the essential requirements referred to in Annex II.

The Commission shall promote, in particular, the preparation of European standards relating to:

- criteria and methodologies for life-cycle analysis of packaging,
- the methods for measuring and verifying the presence of heavy metals and other dangerous substances in the packaging and their release into the environment from packaging and packaging waste,
- criteria for a minimum content of recycled material in packaging for appropriate types of packaging,
- criteria for recycling methods,
- criteria for composting methods and produced compost,
- criteria for the marking of packaging.

Article 11

Concentration levels of heavy metals present in packaging

1. Member States shall ensure that the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components shall not exceed the following:

- 600 ppm by weight two years after the date referred to in Article 22 (i);
- 250 ppm by weight three years after the date referred to in Article 22 (i);
- 100 ppm by weight five years after the date referred to in Article 22 (i).

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2. The concentration levels referred to in paragraph 1 shall not apply to packaging entirely made of lead crystal glass as defined in Directive 69/493/EEC ⁽¹⁾.
3. The Commission shall, in accordance with the procedure laid down in Article 21, determine:
 - the conditions under which the above concentration levels will not apply to recycled materials and to product loops which are in a closed and controlled chain,
 - the types of packaging which are exempted from the requirement referred to in paragraph 1, third indent.

*Article 12***Information systems**

1. Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonized basis in order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Directive.
2. To this effect, the databases shall provide in particular information on the magnitude, characteristics and evolution of the packaging and packaging waste flows (including information on the toxicity or danger of packaging materials and components used for their manufacture) at the level of individual Member States.
3. In order to harmonize the characteristics and presentation of the data produced and to make the data of the Member States compatible, Member States shall provide the Commission with their available data by means of formats which shall be adopted by the Commission one year from the date of entry into force of this Directive on the basis of Annex III, in accordance with the procedure laid down in Article 21.
4. Member States shall take into account the particular problems of small and medium-sized enterprises in providing detailed data.
5. The data obtained shall be made available with the national reports referred to in Article 17 and shall be updated in subsequent reports.
6. Member States shall require all economic operators involved to provide competent authorities with reliable data on their sector as required in this Article.

*Article 13***Information for users of packaging**

Member States shall take measures, within two years of the date referred to in Article 22 (1), to ensure that users of packaging, including in particular consumers, obtain the necessary information about:

- the return, collection and recovery systems available to them,
- their role in contributing to reuse, recovery and recycling of packaging and packaging waste,
- the meaning of markings on packaging existing on the market,
- the appropriate elements of the management plans for packaging and packaging waste as referred to in Article 14.

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Member States shall also promote consumer information and awareness campaigns.

⁽¹⁾ OJ No L 326, 29. 12. 1969, p. 36.

▼ **B***Article 14***Management Plans**

In pursuance of the objectives and measures referred to in this Directive, Member States shall include in the waste management plans required pursuant to Article 17 of Directive 75/442/EEC, a specific chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 4 and 5.

*Article 15***Economic instruments**

Acting on the basis of the relevant provisions of the Treaty, the Council adopts economic instruments to promote the implementation of the objectives set by this Directive. In the absence of such measures, the Member States may, in accordance with the principles governing Community environmental policy, *inter alia*, the polluter-pays principle, and the obligations arising out of the Treaty, adopt measures to implement those objectives.

*Article 16***Notification**

1. Without prejudice to Directive 83/189/EEC, before adopting such measures, Member States shall notify the drafts of measures which they intend to adopt within the framework of this Directive to the Commission, excluding measures of a fiscal nature, but including technical specifications linked to fiscal measures which encourage compliance with such technical specifications, in order to permit the latter to examine them in the light of existing provisions following in each case the procedure under the above Directive.

2. If the proposed measure is also a technical matter within the meaning of Directive 83/189/EEC, the Member State concerned may indicate, when following the notification procedures referred to in this Directive, that the notification is equally valid for Directive 83/189/EEC.

*Article 17***Obligation to report**

Member States shall report to the Commission on the application of this Directive in accordance with Article 5 of Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment⁽¹⁾. The first report shall cover the period 1995 to 1997.

*Article 18***Freedom to place on the market**

Member States shall not impede the placing on the market of their territory of packaging which satisfies the provisions of this Directive.

▼ **M2***Article 19***Adaptation to scientific and technical progress**

The amendments necessary for adapting to scientific and technical progress the identification system (as referred to in Article 8(2) and Article 10, second subparagraph, last indent), the formats relating to the database system (as referred to in Article 12(3) and Annex III) as well as the illustrative examples on the definition of packaging (as referred to in Annex I) shall be adopted in accordance with the procedure referred to in Article 21(2).

⁽¹⁾ OJ No L 377, 31. 12. 1991, p. 48.

▼ B*Article 20***Specific measures**▼ M2

1. The Commission, in accordance with the procedure referred to in Article 21, shall determine the technical measures necessary to deal with any difficulties encountered in applying the provisions of this Directive in particular to inert packaging materials, put on the market in very small quantities (i.e. approximately 0,1 % by weight) in the European Union, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging.

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2. The Commission shall also present a report to the European Parliament and the Council on any other measure to be taken, if appropriate accompanied by a proposal.

▼ M2*Article 21***Committee procedure**

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC ⁽¹⁾ shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

▼ B*Article 22***Implementation in national law**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 30 June 1996. They shall immediately inform the Commission thereof.
2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. the methods for making such reference shall be laid down by the Member States.
3. In addition, Member States shall communicate to the Commission all existing laws, regulations and administrative provisions adopted within the scope of this Directive.

▼ M2

3a. Provided that the objectives set out in Article 6 are achieved, Member States may transpose the provisions of Article 7 by means of agreements between the competent authorities and the economic sectors concerned.

Such agreements shall meet the following requirements:

- (a) agreements shall be enforceable;
- (b) agreements shall specify objectives with the corresponding deadlines;
- (c) agreements shall be published in the national official journal or an official document equally accessible to the public, and transmitted to the Commission;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

▼M2

- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall ensure that the progress achieved under the agreement is examined;
- (f) in the event of non-compliance with the agreement, Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

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- 4. The requirements for the manufacturing of packaging shall in no case apply to packaging used for a given product before the date of entry into force of this Directive.
- 5. Member States shall, for a period not exceeding five years from the date of the entry into force of the present Directive, allow the placing on the market of packaging manufactured before this date and which is in conformity with their existing national law.

Article 23

Directive 85/339/EEC is hereby repealed with effect from the date referred to in Article 22 (1).

Article 24

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 25

This Directive is addressed to the Member States.

▼ **M2***ANNEX I***ILLUSTRATIVE EXAMPLES FOR CRITERIA REFERRED TO IN
ARTICLE 3(1)****Illustrative examples for criterion (i)***Packaging*

Sweet boxes

Film overwrap around a CD case

Non-packaging

Flower pots intended to stay with the plant throughout its life

Tool boxes

Tea bags

Wax layers around cheese

Sausage skins

Illustrative examples for criterion (ii)*Packaging, if designed and intended to be filled at the point of sale*

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Non-packaging

Stirrer

Disposable cutlery

Illustrative examples for criterion (iii)*Packaging*

Labels hung directly on or attached to a product

Part of packaging

Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents.



ANNEX II

ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE REUSABLE AND RECOVERABLE, INCLUDING RECYCLABLE, NATURE OF PACKAGING**1. Requirements specific to the manufacturing and composition of packaging**

- Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer.
- Packaging shall be designed, produced and commercialized in such a way as to permit its reuse or recovery, including recycling, and to minimize its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.
- Packaging shall be so manufactured that the presence of noxious and other hazardous substances and materials as constituents of the packaging material or of any of the packaging components is minimized with regard to their presence in emissions, ash or leachate when packaging or residues from management operations or packaging waste are incinerated or landfilled.

2. Requirements specific to the reusable nature of packaging

The following requirements must be simultaneously satisfied:

- the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use,
- possibility of processing the used packaging in order to meet health and safety requirements for the workforce,
- fulfil the requirements specific to recoverable packaging when the packaging is no longer reused and thus becomes waste.

3. Requirements specific to the recoverable nature of packaging**(a) Packaging recoverable in the form of material recycling**

Packaging must be manufactured in such a way as to enable the recycling of a certain percentage by weight of the materials used into the manufacture of marketable products, in compliance with current standards in the Community. The establishment of this percentage may vary, depending on the type of material of which the packaging is composed.

(b) Packaging recoverable in the form of energy recovery

Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value to allow optimization of energy recovery.

(c) Packaging recoverable in the form of composting

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it should not hinder the separate collection and the composting process or activity into which it is introduced.

(d) Biodegradable packaging

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water.

*ANNEX III***DATA TO BE INCLUDED BY MEMBER STATES IN THEIR
DATABASES ON PACKAGING AND PACKAGING WASTE (IN
ACCORDANCE WITH TABLES 1 TO 4)**

1. For primary, secondary and tertiary packaging:
 - (a) quantities, for each broad category of material, of packaging consumed within the country (produced + imported – exported) (Table 1);
 - (b) quantities reused (Table 2).
2. For household and non-household packaging waste:
 - (a) quantities for each broad category of material, recovered and disposed of within the country (produced + imported – exported) (Table 3);
 - (b) quantities recycled and quantities recovered for each broad category of material (Table 4).

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TABLE 1

Quantity of packaging (primary, secondary and tertiary) consumed within the national territory

	Tonnage produced	- Tonnage exported	+ Tonnage imported	= Total
Glass				
Plastic				
Paper/cardboard (including composite)				
Metal				
Wood				
Other				
Total				

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TABLE 2

Quantity of packaging (primary, secondary and tertiary) reused within the national territory

	Tonnage of packaging consumed	Packaging reused	
		Tonnage	Percentage
Glass			
Plastic			
Paper/cardboard (including composite)			
Metal			
Wood			
Other			
Total			

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TABLE 3

Quantity of packaging waste recovered and disposed of within the national territory

	Tonnage of waste produced	- Tonnage of waste exported	+ Tonnage of waste imported	= Total
Household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
Metal packaging				
Wood packaging				
Total household packaging waste				
Non-household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
Metal packaging				
Wood packaging				
Total non-household packaging waste				

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TABLE 4

Quantity of packaging waste recycled or recovered within the national territory

	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered	
		Tonnage	Percentage	Tonnage	Percentage
Household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
Metal packaging					
Wood packaging					
Total household packaging waste					
Non-household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
Metal packaging					
Wood packaging					
Total non-household packaging waste					