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REVISION OF THE PACKAGING AND PACKAGING WASTE DIRECTIVE (94/62/EC)
UNICE COMMENTS ON DGXI.E.3. WORKING DOCUMENT DATED 10 JUNE 1999**1. Introduction**

The Packaging and Packaging Waste Directive provides, in Art. 6.3, for the revision of the Directive with the aim of fixing the recovery and recycling targets for the second five-year period (2001 – 2006). In meeting this legal provision, DGXI/E/3 (Waste Management Unit) has prepared a working document dated 10 June 1999 that suggests additional changes affecting other provisions of the Directive.

UNICE appreciates DG XI's intention of starting its work and its contacts with industry on this revision sufficiently far in advance.

The technical document submitted by DG XI/E3 gives UNICE an opportunity to present in this document:

- its views on the fundamental approach which should be followed to prepare revision of the directive;
- more specific comments on the above-mentioned technical document.

2. Fundamental approach to be followed for revision of the directive

UNICE supports the twin objectives of the Directive : environmental protection and the functioning of the Internal Market.

It is important to recognise that there is currently a serious lack of information about the present situation regarding Packaging and packaging waste. Although the directive has provided an appropriate framework for establishing national packaging waste systems, there has been very little time so far to evaluate results properly for the following reasons:

- Implementation of the Directive has been significantly delayed and some Member States are still in this phase more than three years after the Directive's deadline.
- No comprehensive data have yet been made available by the Member States as regards achievement of the current targets. It should be pointed out that the prescribed report from the Commission will constitute an essential element to allow the European Parliament and Council to examine the practical experience gained by Member States in pursuit of the targets (as provided in Article 6.3a).
- Two studies ordered by the Commission on packaging waste management in the Member States will not become available before 2000¹.

¹ - Study on costs, benefits and cost-effectiveness of financial pool systems in the context of national implementation of Directive 94/62/EC on Packaging and Packaging Waste (Tender III/98/073)

- Study on packaging waste management systems in Member States with the objective of predicting the possible evolution of such systems at the year 2006 and 2011 (Tender E3/ETU/980111)

It should be noted, furthermore, that adoption of the relevant CEN standards is only foreseen for mid-2000, which means that it is only then that their influence for better enforcement of essential requirements (information, provision, ...) will start to come into play.

For UNICE, it is of capital importance to correct this lack of information, in order to make it possible to base proposed amendments to the directive on solid foundations.

This need for information does not only relate to statistical information. Revision of the directive should be part of a wide strategic analysis seeking to put in place legislation which remains adequate for many years. It is therefore essential that Commission officials open dialogue with economic circles in order to ascertain:

- what own-initiatives they are developing/studying for packaging;
- what new approaches/strategies could be considered at EU level to address the question of waste packaging more cost-effectively.

Such dialogue appears to be an absolute pre-condition for successful definition of the main lines of more technical legislative work. UNICE is willing to make its contribution to launch of such a wide-ranging dialogue, and to assist both industry and the Commission.

UNICE believes that a strategic dialogue is also necessary because revision of the packaging directive could generate concepts, ideas and provisions which may be subsequently applied to other waste questions.

Fundamental requirements to be met in revision of the packaging and packaging waste directive

Any revision of the directive must:

- ♦ be based on reliable and comparable data and require coherency in data collection across all Member States of the European Union,
- ♦ be based on a sound analysis of the experience so far of both Member States and industry,
- ♦ respect the objective of ensuring the functioning of the Internal Market,
- ♦ respect the principle of non-discrimination between the different types of packaging systems and packaging materials as long as they are in line with the essential requirements of the Directive,
- ♦ be accompanied by a cost-benefit analysis on the environmental, social and economic consequences.

UNICE believes that all Commission efforts should be devoted to fulfilling the above requirements and that any modification of the current targets should be subject to the outcome of the above process. UNICE recommends that, given the shortcomings outlined above, DG XI should at present focus the scope of any revision of the Directive on the targets as indicated by Article 6.3.

3. Specific comments on the DG XI Waste Management Unit working document dated 10 June 1999

The working document raises a number of difficulties, commented on below, which give a good idea of the issues which need to be examined in a strategic dialogue. More particularly :

Targets

- ♦ UNICE is concerned by the Waste Management Unit's proposal to increase the current overall 25-45% recycling target to be reached by 2001 to a 75% recycling target to be reached by 2006. This is not documented in sufficient environmental and economic evaluations.

- ♦ The Waste Management Unit proposes that the new recycling targets should apply only to the sales packaging fraction. There is a lack of environmental or economic justification for this proposal, which is contrary to the scope of directive 94/62/EC.

Energy recovery

- ♦ UNICE is particularly concerned to note that the Waste Management Unit seems to regard incineration with energy recovery as a brake on recycling. In UNICE's view, it is essential to maintain the current choice of all recovery options, i.e. reuse, recycling, energy recovery, biomethanisation, composting. Any unjustified discrimination against energy recovery risks hampering environmentally effective waste management.

Prevention

- ♦ While agreeing on the importance of prevention, UNICE believes that the Waste Management Unit suggestion to encourage Member States to introduce their own measures (e.g. on qualitative prevention) risks creating new barriers to trade. Any limitations on use of certain substances must be based on thorough and objective scientific evaluation and result from action at EU level.

Reuse

- ♦ The proposed modification to Article 5 is not supported by any documented evidence and data given is fragmentary. It would compel Member States to adopt new measures leading to discrimination and trade distortions regardless of any environmental benefit, thus worsening the problems caused by the current article. If any revision were deemed necessary, it should address the need to avoid such obstacles, e.g. by an explicit reference to article 18 of the Directive.

Responsibility on the return, collection and recovery systems

- ♦ The suggested reinforcement of the principle of producer responsibility ignores recognition that this is already the case in many Member States based on sharing of responsibility. The directive should continue to be based on the principle of shared responsibility because all actors in the lifecycle of products have a share in the responsibility for the associated environmental, social and economic impact. Various schemes are set up differently and should remain within the remit of each Member State in line with the principle of subsidiarity.

