



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(2004) 127 final

2004/0045 (COD)

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Directive 94/62/EC on packaging and packaging waste

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

1.1. Background

On 31 December 1994, Directive 94/62/EC on packaging and packaging waste¹ (hereinafter “original packaging directive”) entered into force. On 7 December 2001 the Commission submitted a proposal for a Directive of the European Parliament and of the Council² amending Directive 94/62/EC on packaging and packaging waste for adoption by co-decision procedure as laid down in Article 251 of the EC Treaty (hereinafter “revised packaging directive”). Inter alia, the revised packaging directive sets increased recovery and recycling targets to be achieved by 31 December 2008³.

At the time when the proposal for the revised packaging directive was submitted to the European Parliament and the Council, accession negotiations with ten new Member States were ongoing. These new Member States shall now accede to the European Union by virtue of the Accession Treaty of 16 April 2003 (hereinafter “acceding States”). Recital 6 of the proposal for a revised packaging directive stated that “*in view of the enlargement of the European Union, due attention needs to be paid to the specific situation in the future Member States, in particular in relation to the attainment of the recycling target of Article 6(1), taking into account their current low level of packaging consumption*”. However, at that time the transition periods for the original directive were not yet finalised for all acceding States. Furthermore, information on the conditions for further increasing the recovery and recycling targets in the acceding States was insufficient. Therefore, the proposal for a revised packaging directive did not contain specific proposals for the acceding States.

The accession negotiations were concluded in December 2002. These negotiations included only legislation adopted by 1 November 2002. Article 2 of the Act of Accession (AA) states that “from the date of accession the provisions of the original Treaties and the acts adopted by the institutions before accession shall be binding on the new Member States and shall apply in those States under the conditions laid down in these Treaties and in this Act.” This means that all acts adopted by the institutions before the date of accession are binding upon the acceding States from the date of accession, although these acts have neither been subject to negotiation nor have the new Member States participated in their adoption. In order to avoid difficulties in applying legislation adopted after 1 November 2002, a number of mechanisms for information and consultation of acceding States during the period preceding accession were agreed at the European Council in Copenhagen on 12-13 December 2002⁴.

In accordance with this information and consultation procedure, eight of the acceding States requested consultation on the proposal to revise the packaging directive. In the meeting of the Interim Committee on 27 February 2003, all acceding States but Cyprus informed the

¹ OJ L 365/10, 31 December 1994.

² COM(2001)729 final (2001/0291 (COD))

³ This deadline is based on Common Position (EC) No 18/2003, OJ C 107 E/17, 6 May 2003. No amendment on this deadline was adopted by the European Parliament in second reading. Greece, Ireland and Portugal may postpone this deadline until a date that still needs to be agreed in conciliation.

⁴ Certain provisions of the Accession Treaty; information and consultation procedure for the adoption of certain decisions and other measures to be taken during the period preceding accession, attached to the Final Act of the Accession Treaty.

Community that they would need a further transitional period. The Committee agreed that these elements would be dealt with under the institutional framework of the Union and considered accordingly. It took note that the Commission intended to hold bilateral consultations on a technical level (hereinafter “technical consultations”) with the acceding States on their request. Such consultations were held with all ten acceding States during the period from 11 March to 14 April 2003.

On the basis of these consultations, the Commission came to the conclusion that the acceding States should benefit from a later deadline to implement the targets of the revised packaging directive because they have only recently started to build up their packaging recycling and recovery systems. Achieving the targets at the same time as the 12 Member States with the earlier implementation deadline of the revision proposal would cause undue costs. To address the problem, the Commission has considered various possible solutions, including the practicality of amending its proposal⁵ in second reading and options envisaged in the Treaty of Accession. The Commission concluded, however, that the most sensible way to proceed was to submit an amending proposal, under article 95 of the Treaty.

The present proposal is intended to address this problem and to set a deadline by which the new targets under the revised packaging directive must be achieved in the acceding States.

1.2. Timing of this proposal

This proposal should be seen in the context of the requirement for all Member States, including the ten acceding States, to transpose the revised packaging directive 18 months after its entry into force. Therefore, ideally this proposal should be adopted in due time before the expiry of this deadline to allow the acceding States to transpose both the revised packaging directive and this proposal at the same time. The timing of this proposal would allow a first debate in the European Parliament and the Council during the first half of 2004. This timing would also make it likely that decisions would only be taken once the acceding States have joined the European Union and can exercise their voting right in the institutions.

⁵ COM(2001)729 final (2001/0291 (COD))

2. THE POSITION OF THE ACCEDING STATES

2.1. Background information

Table 1: Transition periods under the Accession Treaty for the following targets of Directive 94/62/EC (deadline 30 June 2001): Overall recovery 50-65%, overall recycling 25-45%, recycling per material 15% as a minimum.

Country	Transition period under the Accession Treaty
Cyprus	Overall recovery and recycling: 2005 Plastics: 2004 Paper/Cardboard: 2005
Czech Republic	Overall recovery: 2005 Plastics: 2005
Estonia	None
Hungary	Overall recovery: 2005 Glass: 2004 Plastics: 2005
Latvia	Overall recovery: 2007 Plastics: 2007
Lithuania	Overall recovery: 2006 Overall recycling: 2004 Metals: 2004 Plastics: 2004
Malta	Overall recovery: 2009 Overall recycling: 2005 Plastics: 2009
Poland	Overall recovery: 2007 Plastics: 2005 Metals: 2005
Slovakia	Overall recovery: 2007 Metals: 2007
Slovenia	Overall recovery: 2007 Plastics: 2007

Table 2: Per capita packaging consumption and share of the different materials in the ten acceding States (per year)

	Per capita packaging consumption [kg]	Glass [% of total packaging]	Paper/board [% of total packaging]	Metals [% of total packaging]	Plastics [% of total packaging]	Wood [% of total packaging]
CY 2003	179	15	37	10	30	8
CZ 1999	130	25	45	8	16	6
EE 2001	85	21	44	8	17	10
HU 1999	71	25	44	12	19	N.A.
LT 2001	49	26	57	5	12	N.A.
LV 2002	61	34	31	4	23	5
MT 2002	159	16	44	6	26	N.A
PL 2003	101	28	39	5	15	13
SI 2001	122	12	31	8	19	23
SK 2002	63	21	50	9	15	6.
EU15 average [1999]	169	24	41	7	16	12

Table 3: Planned recycling rates according to the implementation plans of the ten new member states and the documents received from these countries in the course of the technical consultation

%	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CY	6.6	11.6	16.4	27.1							55 [§]			
CZ	31	35	40	45	47	49	50	52	53	54	55			
EE	25	25	25	25	30	35	35	40	45	50	55			
HU	34.2	36.4	39.5	46.2			49.0		52		55 [§]			
LT	15	20	29	33	43						55 [§]			
LV	31	33	36	39	42	45	46	47	49	50	51	52	54	55
MT	2	18	21	25	29	35	41	45	48	51	53	55		
PL	19.3	21.6	24.9	29.1	33.1	36.6	38.3	40.6	43.1	46.0	49.0	52.1	55.3	
SI	30	34	38	39	40	40	43	46	49	52	55			
SK	21	23	25	29	33	37	41		47		55			

All the data are based on the submissions of the country in the framework of the technical consultation on the revision of the packaging directive.

§: Country indicated that an implementation date of 2012 is considered to be realistic.

2.2. The detailed positions of the acceding States

Following the meeting of the Interim Committee of 27 February 2003, bilateral technical consultations were held over the period between 11 March to 14 April with all ten acceding States. Additionally, position papers have been received from all ten acceding States. The positions below reflect these technical consultations and position papers. The deadlines refer to the targets of Common Position (EC) No 18/2003⁶, which have also been supported by the European Parliament in its vote in Second Reading on 2 July 2003.

Cyprus indicated that its low quantities of packaging waste (130,000 tonnes per year) prevented economies of scale. Own recycling plants are often not economic and the collected material must be shipped abroad for recycling. This creates additional costs. Moreover, the large number of small packaging producers makes the enforcement of producer responsibility more complex. However, Cyprus believes the new targets will be fully achieved by 2012.

The **Czech Republic** underlined the need to develop recycling capacity at a similar speed as the other acceding States to avoid distortions of competition between the new countries. Attaining the new targets by 2008 would entail high economic costs. Particular difficulties with respect to the wood and metal targets were mentioned. The Czech Republic indicated, however, that it is able to reach the new targets by 2012.

Estonia is the only acceding State without a transition period for the original packaging directive. The reason is that Estonia planned to use energy recovery to fulfil the targets to a much higher degree than other acceding States. However, the targets of the revised directive will require a substantial increase of recycling. This will necessitate additional investments and a reconsideration of the current strategy for packaging waste recovery. Therefore, Estonia indicated that it needs additional time to achieve the new targets. Estonia considers a deadline of 2012 to be realistic. Instead of a 15% recycling target for wood, it would prefer a 15% recovery target for this material.

Hungary requires additional time to meet the new targets of the revised Directive due to a relatively low packaging consumption, the presence of extensive rural areas and a shortage of recycling capacities (namely in the glass sector). However, Hungary has indicated it will be able to reach the new targets by 2012.

Latvia underlined its low packaging consumption of 61 kg per inhabitant and its specific geographic conditions. Large parts of the country are very sparsely populated (37 inhabitants per km²) and both road and waste collection infrastructure is still poor in these areas. Less than 40% of all roads are paved. Achieving the new recycling rates will create increasing marginal costs and require collection and recycling not only in the urban centres but also in the less populated areas. Although no concrete cost figures are available, costs are considered to be high compared to current price and income levels. Latvia considers that it will need the same time to build up its recycling system to the levels of the new targets as the existing Member States. For these reasons, it believes that an additional delay until 2015 will be needed.

Lithuania referred to its low population density (53 inhabitants per km²) and packaging consumption (below 50 kg per inhabitant). It will need to make significant investments into modern waste treatment facilities. The share of industrial packaging waste is particularly low

⁶ OJ C 107E of 6 May 2003, p.17

(only 4% of total packaging waste). Lithuania argued it will need a similar time to build up its collection and recycling infrastructure as the existing Member States had. However, 2012 is considered to be a realistic deadline.

Malta referred to its particular situation, including its geophysical circumstances and structural disadvantages, the highest population density in Europe (1,200 inhabitants per km²) as well as the impact of tourism. Own recycling installations are in many cases uneconomic due to a lack of economies of scale. Therefore, a large part of the packaging waste for recycling needs to be shipped to the continent. This creates additional costs. Furthermore, its existing re-use system for soft drinks (transition period until 2007) has as a consequence that there is little waste from plastic bottles. As this is the most recyclable fraction of plastics packaging waste, achieving the 22.5% target for this material will be particularly difficult. Malta considers that it can achieve the new targets by 2013, with the exception of the plastics recycling target, for which an additional delay until 2016 would be required.

Poland underlined the high costs of setting up the necessary infrastructure and the need to evaluate the currently insufficient experiences with its packaging recovery organisation. It considers that only a deadline of 2014 would be realistic to achieve the new targets. The current cost of the Polish system is estimated at around 0.14 € per capita while similar costs are 2.9 € in the United Kingdom and 22.6 € in Germany⁷. Poland calculates that for the new targets, its recycling and recovery costs will increase by a factor 20 at least to achieve the targets for 2007 and then by a factor of 6 to 8 to achieve the new targets. To achieve these targets, Poland estimates that the investment costs for 2003 will be 17 M€, for 2004 to 2006 51 M€, for 2007 to 2010 68 M€ and for 2010 to 2014 51 M€. 36% of these investments would be used to modernise recycling installations, 30% to expand sorting installations and 34% for separate collection.

Slovakia estimated that the cumulative cost of attaining the new targets by 2012 would be around 68 Million € (investment and operational costs). It would seem very difficult from a practical point of view to set up the necessary collection and recycling infrastructure by 2008. If at all possible, this would create significantly higher costs than for 2012 due to the investment cost concentrated in a shorter period without benefiting from the revenues. A deadline of 2012 for the new targets is however considered to be realistic.

Slovenia underlined that the experiences with its new packaging recovery scheme are still incomplete. However, a deadline of 2012 is considered to be realistic.

3. THE PROPOSED REVISION

Scope and content of the revision

This proposal is limited to setting a deadline of 31 December 2012 for acceding States to achieve the recovery and recycling targets under the revised packaging directive.

Reasoning for the proposed deadline

The choice of 31 December 2012 as a deadline reflects a balance between the following considerations.

⁷ This seems to refer to the financing need, i.e. this does not take into account saved disposal costs.

A too ambitious deadline would have created significant start-up costs for the acceding States and it is questionable whether achieving the new targets by 2008 as for most existing Member States would have been feasible at all. Furthermore, many acceding States have transition periods for achieving the original packaging directive which are very close to 2008 or, in the case of Malta, even exceeding this date.

On the other hand, choosing a very late deadline would jeopardise the purpose of the Directive, i.e. to reduce Internal Market disparities by agreeing on a common approach towards packaging and packaging waste management, including recovery and recycling. Countries that already put much effort in a sound packaging waste management have an interest in fair competition conditions between their companies and those in Member States where it took longer to establish packaging recovery systems. Furthermore, it will be important to move towards a co-ordinated approach towards increasing the recycling and recovery efforts in the acceding States to give clear signals and a reliable planning for the creation of infrastructure and recycling industries in the new countries. As many of the new countries are relatively small, the use of recycling capacities in other Member States is expected to be rather the rule than the exception.

Unlike the accession negotiations, it is considered that the deadline should no more be set on a country by country basis. The integration of the new countries in the Internal Market will have made substantial progress by the time the new targets apply. Although differences between the new countries certainly exist, geographical and political or historical factors cannot give a reason for a substantially slower introduction of packaging recycling and recovery in some countries than in others (for a more detailed explanation on geographical conditions see below). In this context, it is undisputed that setting up and operating efficient recycling and recovery systems is linked to costs. However, these costs occur in all countries and they also need to be seen together with the environmental benefits and the saved alternative disposal costs in the countries themselves.

The deadline of 31 December 2012 was chosen to reflect a balance between all these factors. This should take into account the views of the new countries, strive for a high level of environmental protection as foreseen in the Treaty and take into account the interest of the existing Member States. This date should also take into account the deadlines set for Greece, Ireland and Portugal.

Specific geographic conditions

Some acceding States refer to their specific geographic conditions, in particular to their low population density or their situation as an island.

It is recognised that it may be very costly to set up and operate collection systems in very sparsely populated areas. It should, however, be noted that the Directive applies to the entire territory of a country and does not require collection in these areas. Although covering a large part of the territory of these countries, only a small part of the population lives in these areas. Normally, more than 60% of the population of all countries concerned live in cities and another big part of the population will live in rural areas close to the cities. Consequently, the share of packaging consumed and discarded in very sparsely populated areas is expected to be small compared to the overall packaging consumption and packaging waste generation in these countries.

It is also recognised that island countries may face additional costs to load to and unload collected packaging waste from ships, if this waste is sent for treatment to recycling

installations. The Commission does, however, not dispose of figures that would indicate that these costs could alter the balance of costs and benefits for recycling significantly. On the contrary, ship transport seems to be economically competitive in many international recycling markets (in particular for metals or plastics).

4. ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPLICATIONS OF THE DIRECTIVE

The impacts of increasing the recycling targets

Due to the urgency of the present proposal, the economic, environmental and social implications of increasing the recycling targets in the acceding States to the levels of the revised packaging directive were evaluated on the basis of existing information, in particular the cost-benefit study by RDC/Pira for the European Commission⁸ and a study by ECOTEC for the European Commission on the benefits of compliance of candidate countries with the environmental acquis⁹.

As the RDC/Pira study was limited to the 15 existing Member States, its results needed to be extrapolated to the new countries. However, there are no reasons to assume that the main patterns of this study would not be valid also for the new countries. This view is in particular based on the following considerations.

The RDC/Pira study indicated that costs and benefits of packaging recycling depend in the first place on the material (e.g. PET; paper) and application (e.g. bottle; carton box). In other words, if recycling of a particular material or application is clearly favourable from a cost-benefit perspective in one country, the same is true in all other countries considered in that study. Local factors play a smaller role, mainly on applications where the cost-benefit balance is not very clear. For the existing Member States, the country with the results most unfavourable to recycling is Ireland with an estimated optimal packaging recycling rate between 40 and 54%. This compares to the country with the most favourable conditions, Denmark, with an optimal rate between 53 and 68%.

The main factor influencing the results seems to be the alternative waste treatment method (incineration or landfill). Population density also seems to play a role. However, the effect of population density on the optimal recycling rate can point in both directions, i.e. depending on the material/application and on alternative waste management method the optimal recycling rate can be both higher and lower in urban compared to rural areas. It should also be noted that collection results for household packaging waste are often better in rural compared to urban areas.

Normally, the new countries have a lower level of packaging consumption. The average packaging consumption in acceding States is 87 kg per capita. This compares to 169 kg per capita in the existing Member States. It seems therefore likely that the new countries will face somewhat higher unit costs for setting up their collection systems. It is also possible that

⁸ RDC/Pira 2001 for the European Commission: Evaluation of costs and benefits for the achievement of reuse and recycling targets for the different packaging materials in the frame of the Packaging and Packaging Waste Directive 94/62/EC, <http://europa.eu.int/comm/environment/waste/studies/packaging/costsbenefits.pdf>

⁹ ECOTEC 2001 for the European Commission: The Benefits of Compliance with the Environmental Acquis for the Candidate Countries, http://europa.eu.int/comm/environment/enlarg/benefit_en.htm

transport costs may be higher than for the existing Member States. However, all these effects are likely to be limited and may be partly compensated by lower labour costs.

The composition of packaging waste is not significantly different from the existing Member States. Therefore, there is no reason to assume specific difficulties for particular materials, apart from the generally lower level of packaging consumption.

The **environmental impacts** of the packaging life cycle are usually dominated by the energy use for the production and recycling or disposal of the material. As the production and recycling methods are unlikely to differ significantly, the environmental patterns are therefore likely to be similar to those in the existing Member States. There may be differences as a result of higher transport distances. However, transport impacts are normally a dimension smaller than the impacts related to material production and recycling or disposal. The reduction of waste going to landfill may be particularly important for the acceding States. Landfilling is still the main alternative disposal method and environmental standards often do not yet comply with Community legislation. It is also possible that the monetary valuation of the environmental impacts would need to be corrected as a result of lower incomes and a different willingness-to-pay for environmental benefits. However, there is little scientific evidence on the monetary valuation of environmental benefits in acceding States. Furthermore, the use of different valuation factors would create further methodological problems.

According to a calculation based on the RDC/Pira study, all recycling activities necessary to achieve the new targets for glass, paper and board, plastics and metals would result in environmental benefits in the rough order of magnitude of around 150 to 200 M€. It is also possible to make a rough calculation of the monetary value of the additional environmental benefits resulting from increased targets compared to current recycling levels. Taking the same approach in calculating the external environmental benefits as for the revision proposal COM(2001)729 and assuming an increase in glass recycling from 20 to 60%, in paper recycling from 35% to 60%, in plastics recycling from 10 to 22.5% and in metals recycling from 10 to 50%, the new targets would result in additional environmental benefits of around 100 M€.

Table 4: Avoided external costs as a result of additional packaging to be recycled under the material specific targets compared to current recycling levels (estimated at 20% for glass, 35% for paper, 10% for plastics, 10% for metals¹⁰)

Sum of all acceding States	Required increase in Mt	Saved external costs (€/t)	Saved external costs (M€)
Paper	730	15	11
Metals	190	20	4
Glass	750	80	60
Plastics	150	200	30
Total	1820		105

¹⁰ Wood is disregarded in this calculation as insufficient cost-benefit data are available.

The ECOTEC study has calculated total annual benefits from the implementation of the original packaging directive for all candidate countries together in a range from 156 to 910 million €. This relates in particular to the avoided environmental damage related to replacing primary materials through recycled materials. The largest environmental benefits are expected for Hungary (10-107 M€), Poland (35-191 M€) and the Czech Republic (22-148 M€).

The **economic impacts** may differ due to lower levels of income and lower labour costs. Both factors will however, to a certain degree, compensate each other. In the existing Member States, the financing need for recycling is often lower than the saved alternative disposal costs for treating the material in landfills or incinerators. This may be different in the acceding States due to their currently very low landfill costs. This is however also linked to the low environmental standards applied. It is likely that landfill costs will increase significantly as acceding States will have to apply the ‘acquis’ upon accession and there are only few transition provisions (for Estonia, Poland and Latvia). Diverting packaging waste to recycling may also reduce costs for building additional capacities to replace old landfills which are full or do not comply with Community standards.

Taking the same approach and cost factors in calculating the recycling costs and alternative disposal costs as for the revision proposal COM(2001)729 and assuming an increase in glass recycling from 20 to 60%, in paper recycling from 35% to 60%, in plastics recycling from 10 to 22.5% and in metals recycling from 10 to 50%, the new targets would result in an additional financing need for recycling of around 250 M€. The alternative disposal costs are evaluated at around 300 M€. Except for the fixed costs, these costs will be saved in case of recycling.

Table 5: Recycling costs and alternative disposal costs of additional packaging to be recycled under the material specific targets compared to current recycling levels (estimated at 20% for glass, 35% for paper, 10% for plastics, 10% for metals¹¹)

Sum of all acceding States	Required increase in 1000 t	Recycling cost (€/t)	Recycling cost (M€)	Disposal cost (€/t)	Disposal cost (M€)
Paper	730	120	88	150	110
Metals	190	150	29	130	25
Glass	750	90	68	160	120
Plastics	150	400	60	300	45
Total	1820		245		300

The **social impacts** may differ as a result of the lower income levels in the acceding States. This may mean that a higher share of the available income needs to be spent for packaging recycling. Social groups with lower income may be more concerned than higher income groups. However, this will be partly compensated by the lower packaging consumption of people with lower income. The implementation of the new targets will create a significant number of jobs, including less qualified employment. On a macroeconomic level, this is however likely to be compensated to a large extent by reduced employment in other areas as less income will be available for other products and services.

¹¹ Wood is disregarded in this calculation as insufficient cost-benefit data are available.

The impacts of postponing the implementation deadline

The environmental, economic and social impacts described above will occur in any case as a result of the targets of the revised packaging directive. This directive will only affect the date by which the new targets need to be implemented in the acceding States. By setting a later date, the directive is expected to reduce costs of setting up the necessary collection, sorting and treatment infrastructure. No information is available on the exact levels of these costs. It is also expected that during the additional transition period the environmental benefits will be slightly reduced compared to an earlier implementation date.

Conclusion

The environmental, economic and social impacts of achieving the new targets in the acceding States are expected to be similar to those in the existing Member States. On the basis of extrapolations of recycling and disposal costs as well as monetary evaluations of environmental benefits, the additional recycling costs compared to current recycling levels is estimated at around 250 M€. This compares to around 300 M€ which can be at least partly saved in case of recycling and roughly 100 M€ in environmental benefits. Nevertheless, there may be differences in costs and in the factors used for monetary evaluation compared to EU15. Therefore, these figures, in particular those for the valuation of environmental benefits should be taken with a significant degree of caution. Compared to the deadlines in the revised packaging directive, this Directive is likely to reduce the costs for setting up the necessary collection, sorting and treatment infrastructure by postponing the implementation date for the acceding States from 2008 to 2012.

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Directive 94/62/EC 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 95 paragraph 1 thereof,

Having regard to the proposal from the Commission¹²,

Having regard to the opinion of the European Economic and Social Committee¹³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty¹⁴,

Whereas:

- (1) In view of the enlargement of the European Union, due attention needs to be paid to the specific situation in the future Member States, in particular in relation to the attainment of the recycling and recovery targets set out in Article 6(1) of European Parliament and Council Directive 94/62/EC¹⁵.
- (2) Member States acceding to the European Union by virtue of the Accession Treaty of 16 April 2003 require additional time to adapt their recycling and recovery systems to the targets of Directive 94/62/EC.
- (3) Since the objectives of the action to be taken, namely to harmonise national targets for the recycling and recovery of packaging waste, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (4) In view of the further enlargement of the European Union, due attention also needs to be paid to the specific situation in countries for which accession is planned at a later stage.
- (5) Directive 94/62/EC should therefore be amended accordingly,

¹² OJ C [...] [...], p. [...]

¹³ OJ C [...] [...], p. [...]

¹⁴ OJ C [...] [...], p. [...]

¹⁵ OJ L 365, 31.12.1994, p. 10. Directive as amended by Directive .././EC (OJ L ...,, p. ..)

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The following paragraph shall be added at the end of article 6 of Directive 94/62/EC:

“11. Member States acceding 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.”

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [18 months after the date of adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)

THE PROPOSAL

- 1. Taking account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims?**

This proposal is necessary because in its absence the new Member States would face difficulties in attaining the targets under the revised Directive 94/62/EC.

THE IMPACT ON BUSINESS

- 2. Who will be affected by the proposal?**

- which sectors of business**

Packaging manufacturers, packers/fillers and retailers

Waste collectors, recyclers and other businesses specialising in waste management

- which sizes of business (what is the concentration of small and medium-sized firms)**

In all four sectors, a large variety of companies will be concerned, ranging from very small to very large companies.

- are there particular geographical areas of the Community where these businesses are found**

This proposal will in particular affect businesses in acceding States.

- 3. What will business have to do to comply with the proposal?**

Compared to the deadlines of the revised packaging directive, this proposal is likely to reduce the level of financial contributions to the recycling systems during the additional transition period granted. This will reduce costs for packers/fillers and retailers and delay the increase of business volume expected for waste management companies.

More in general, the packaging directive affects businesses in the following way. Depending on national legislation, packaging manufacturers, packers/fillers and/or retailers may have to make financial contributions to recycling systems. The degree to which such contributions are required varies between the Member States. Normally, the cost of these contributions is passed on to consumers of packaging. Alternatively, businesses may be required to organise the take back and recycling of packaging waste from their own products. Waste management companies and recyclers will increase their normal business activities.

4. What economic effects is the proposal likely to have?

– on employment

Compared to the deadlines set in the revised packaging directive, there will be a slower increase in employment in the waste management and recycling sectors. It is difficult to evaluate macroeconomic impacts on employment but it may be assumed that the overall effects of this proposal, as of the packaging directive in general, are small.

– on investment and the creation of new businesses

Compared to the deadlines set in the revised packaging directive, the increased recycling obligations will only at a later stage encourage investment in waste management and recycling. This also applies to the possible creation of new businesses.

– on the competitiveness of businesses

A study by the University of Belfast et al.¹⁶ has not found significant effects on the competitiveness of businesses of the original packaging directive. There are no reasons to assume that this proposal will have a significant impact on the competitiveness of businesses.

5. Does the proposal contain measures to take account of the specific situation of small and medium-sized firms (reduced or different requirements etc)?

no

CONSULTATION

Due to the need to come forward with this proposal rapidly, no stakeholder consultation could be held. However, the more ambitious deadlines of the revised packaging directive would have in all likelihood resulted in significant costs and implementation problems for many businesses.

6. List the organisations which have been consulted about the proposal and outline their main views.

¹⁶ University of Belfast et al. Study on measuring the competitiveness effects of environmental compliance: the importance of regulation and market pressures (ENV4-CT96-0237).