

Unofficial note of the Article 21 Committee Meeting on the Packaging and Packaging Waste Directive

Brussels, 10 December 2008

A. Summary

The meeting covered reporting of 2006 data, a vote on a draft Commission Decision for a further derogation on heavy metal limits for pallets and crates, items classed as packaging or non-packaging, implementation and enforcement of the essential requirements, and AOB – including materials markets.

B. Detail

Introduction

The Commission opened the meeting and two apologies were noted. Presentations would be made available to Member States on Circa.

Adoption of the agenda

Three additional points for AOB were identified: i) a discussion of the materials markets issue impact on waste recyclers, ii) an industry presentation on sterile barrier packaging, iii) contribution companies must pay for putting packaging on the market in a specific member state.

Adoption of the summary record of the meeting of 4 September 2007

The record of the last meeting was taken as adopted.

Reporting of data

An official from Eurostat made a presentation on reporting methodology and the data received. The results had already been published on the public website.

A brief discussion took place on the trends and changes in the reported figures. It was noted that national figures were sometimes influenced by individuals adding privately imported glass to their recycling. One member state offered additional data to help the Commission better understand the figures.

The Commission proposed introducing a voluntary standard reporting structure. This would sit with the new Waste Framework goals for more standard reporting across the specific waste Directives and make analysis by the Commission easier. It would be circulated and Member States would be encouraged to adopt it.

The Commission reminded Member States of the importance of submitting data and that a further Packaging Directive a further implementation report (3-year cycle) will need to be made to Parliament and Council end of 2009.

Discussion and vote on the draft Commission Decision regarding a further derogation on heavy metals in pallets and crates

The potential need for a new derogation for heavy metals in pallets and crates had been discussed at the last meeting. The current 10-year derogation ends in 2009 and most Member States had been in favour of prolongation. A brief overview of the consultants study was given. A draft text for a new Commission Decision had been circulated to Member States.

The Commission noted there was not sufficient evidence for an extension of the derogation for a set period. Whilst the Commission would like to see it removed, they

understood the policy issues should the levels set in the Directive be implemented at this time.

The Commission's draft Decision proposed a new derogation, with the option for a review after 5 years to consider progress on reduction in heavy metal levels. With regular reporting, if it were decided to have a review, the Commission would then have comparative data to decide next steps.

A vote took place and the proposal was approved by the Committee. (The text now goes for scrutiny by Council and Parliament before publication in the Official Journal).

Discussion on the list of items classified as packaging and non-packaging

The Commission provided an overview of the list of packaging items, and the various positions and comments made by Member States. A brief discussion followed in which the Committee noted that industry wanted clarity for producer responsibility obligations.

It was agreed that the Commission would provide Member States with its rationale and a proposal for classification for all items on the list. Member States agreed to provide comment, after which the Commission would then make a proposal moving forward to either table a proposal to amend Annex I of the Directive or some other solution.

Implementation and enforcement of Essential Requirements in Member States

The Commission had two actions to announce following their December 2006 Report on Implementation of the Directive:

Firstly, a communication would be issued by the Commission on beverage packaging, deposit systems and free movement of goods in Q1/2 2009. This guidance will also make a thorough examination of the court cases and decisions made by Court of Justice, so that Member States can consider fully the issues before proposing any measure under PPWD.

Secondly, consultants would start a 9-10 month study on the implementation of the essential requirements in Member States. This would be broader than originally proposed and would cover use of the CEN Standards, application of requirements and enforcement in Member States. It was agreed that the next meeting to consider the recommendations and conclusions.

AOB

i) Wooden pallets

This ongoing issue concerned the definition for the classification of repair and recycling of wooden pallets. Member States agreed that the existing Standards were the best starting point to work through the issue. The Commission additionally suggested that the Revised Waste Framework Directive (WFD) might perhaps provide clarity here – it defines reuse in two concepts: i) as a treatment activity and ii) as reuse of products. Member States agreed to provide comments - particularly if new work should apply to all packaging. It was agreed that the Commission would develop and issue guidance, considering how definitions of the WFD might be made to sit with the Packaging Directive.

**ii) Collapse in markets for recovered materials (paper, plastic, metals)
possible solutions**

The issue of the decline in markets for recovered materials (raised at Environment Council the previous week) was briefly discussed. It was noted that domestic EU materials markets situation (and global downturn in materials markets), had the potential to impact on Member States ability to meet a number of waste Directive targets.

One member state proposed that the Committee develop a database of recovery facilities at an EU level. It was agreed they would email a template to the Commission for forwarding to Member States to complete if they wished.

One member state was taking short-term measures, making new storage options available and laws for local authorities to counter illegal dumping (fly tipping). They were also looking at the long-term impacts and possibilities of national database to promote movement of materials. The UK had taken similar steps to aid storage of materials, influence markets and maintain consumer confidence in recycling, but beyond this noted the issue was in its infancy and favoured waiting to see how the situation developed.

The Commission endorsed the UK view and informed the Committee it would be drafting a discussion paper (with Czech Republic who will have Presidency) for the Environment Council in March.

iii) A short presentation by the industry on sterile barrier packaging

A representative of St Jude Medical CRMD, Sweden, made a presentation on behalf of industry regarding the treatment of sterile barrier packaging in medical devices and packaging Directives. In particular a case was presented that there was a distinction between the device, the sales packaging and sterile packaging – packaging which industry viewed as an integral part of the product.

iv) Producer responsibility – placing on the market

One member state raised the issue of the contribution companies must pay for putting packaging on the market in a specific member state. It was agreed more information was needed and that a further discussion take place at the next meeting.

v) Marking Decision

The Commission raised the issue of the current Commission Decision on labelling (marking). Some Member States had obliged the labelling/marketing to be under that system, overlooking the currently voluntary approach.

Closing of meeting

The meeting closed at 15:00. The next meeting was expected in September 2009.

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