



# German Industry's Responsibility to Dispose of Consumer Packaging

August 1991

LL File No. 1991-3009  
LRA-D-PUB-001853

This report is provided for reference purposes only.  
It does not constitute legal advice and does not represent the official  
opinion of the United States Government. The information provided  
reflects research undertaken as of the date of writing.  
It has not been updated.

# **GERMAN INDUSTRY'S RESPONSIBILITY TO DISPOSE OF CONSUMER PACKAGING**

## **Overview**

On June 12, 1991, the Federal Government issued a regulation that makes industry responsible for the disposal of consumer packaging. The Packaging Regulation<sup>1</sup> is based on the 1986 Waste Management Law which enables the government to impose various measures aimed at waste prevention, reuse, and recycling.<sup>2</sup>

The Regulation aims at decreasing the use of throw-away packaging and thereby reduce the amount of waste. Industry has a choice of either setting up a private collection system for all wastes generated by the sale of consumer goods or submitting to a regulatory scheme that would require every retailer to take back all consumer packaging. The overall philosophy of the regulation has been described by the German Federal Minister for the Environment by stating that "whoever sells packaging is responsible for its disposal."<sup>3</sup>

## **Summary of the Packaging Regulation**

### **Purpose and scope of application**

The purposes of the Packaging Regulation are stated as the avoidance of ecologically harmful packaging materials and the reduction of waste. These goals are to be achieved by a general rule that packaging may not be more voluminous than is necessary to protect the content and market the goods. In addition, reusable packaging must be used when possible, and when this is not feasible, packaging must be recycled.

The Regulation applies to the producers and distributors of packaging and packaging materials and to the distributors (retailers, wholesalers and mail order houses) of packaged goods.

Packaging is classified into the three categories of transportation packaging, consumer packaging (including disposable dishes and flatware), and display packaging. Different rules apply for each category. In addition, there are separate rules for beverage containers and packaging for detergents and dispersion paints.

---

<sup>1</sup> Verordnung zur Vermeidung von Verpackungsabfällen (Verpackungsverordnung) (Regulation on the Avoidance of Refuse from Packaging, (Packaging Regulation)), June 12, 1991, *Bundesgesetzblatt* (BGBl., official law gazette of the Federal Republic of Germany) I, p. 1234.

<sup>2</sup> Abfallgesetz (Waste Management Law), August 27, 1986, BGBl. I, p. 1410, as amended, §§ 1a and 14, para. 2. The Waste Management Law is a Federal law. Aside from several federal regulations, it is implemented by the authorities of the *Länder* (states). In addition, the *Länder* have enacted supplementary waste management laws [G. Ketterer and G. Kippels, *Umweltrecht* 160 (Köln, 1988)].

<sup>3</sup> 14 *International Environment Reporter. Current Reports* 223 (1991).

### **Transportation packaging**

Transportation packaging must be taken back by the producer or distributor after it has been used. The packaging may not end up in the public waste disposal facilities. Instead, it must be either reused or recycled. If the consumer insists on retaining the transport packaging, then it becomes subject to the rules for consumer packaging.

### **Display packaging**

Display packaging is defined as casings or wrappings that are used to sell goods in self-service stores either to advertise or to discourage theft. These outer layers of packaging must either be removed by the seller at the time of sale, or the purchaser must be given an opportunity to remove them on the premises of the seller. If the customer elects to retain the display packaging, it becomes reclassified as consumer packaging. If the seller does not remove the display packaging, notices must be posted at the cash registers informing the customers of the collection facilities on the premises. Containers for different types of materials must be provided. All display packaging must be either reused or recycled.

### **Consumer packaging**

The regulation foresees an elaborate collection system for the return of consumer packaging. Sellers of consumer goods must accept returned packaging from the consumer, either on the premises or in the immediate vicinity. Retailers must accept all packaging of the size and type that conforms to the goods sold; small retailers need only accept packaging for the goods actually carried by the store. Mail-order houses must provide collection facilities at reasonable distances from the customers, and the catalogs must provide information on the return facilities. Producers of packaging and wholesalers must accept the consumer packaging collected by the retailers and have it recycled or reused.

### **Deposit fees for beverage containers and detergent containers.**

For beverage containers, a deposit fee must be collected at every turnover throughout the chain of distribution and also from the consumer. The fee must be refunded when the container is returned. For throw-away containers, the fee is 0.50 *Deutsche Mark* (DM, U.S. \$0.30); for reusable containers the deposit fee is at least DM 0.50; and for containers with a volume of 1.5 liter or more, the minimum fee is DM 1.00 (U.S.\$0.60). The same fee structure also applies to detergent packaging, with the exception of refill containers. For packaging containing at least 2 kilograms of dispersion paint, a deposit fee of DM 2.00 (U.S. \$ 1.20) must be collected.

### **Avoidance of the regulatory scheme through a voluntary collection system**

Producers and distributors of all consumer packaging (including beverage, detergent and paint containers) can avoid the regulatory scheme if they participate in a private collection and disposal system that lives up to certain requirements. The private scheme must be in place by January 1, 1993. The supervisory agencies for the private systems are the waste management authorities of the *Länder*.

The private collection scheme must cover the entire distribution area of the sold goods, and the packaging must be collected either directly from the consumers or through conveniently located collection containers. The system must be drawn up in coordination with the waste disposal facilities of the municipalities. The latter may impose a fee for the use of their facilities and for services such as collecting and sorting.

In addition, certain quantitative and qualitative criteria must be met by January 1993, and more stringent criteria must be met by July 1, 1995. From January 1, 1993, the system must collect certain percentages of the total packaging material generated for the distribution area.<sup>4</sup> These range from 20 to 60% for different materials. However, until the middle of 1995, the quota is met if 50% of the total packaging material is collected. From July 1, 1995, 80% of all packaging material in the categories of glass, tinplate, aluminum, cardboard, paper, plastic, and composite structural material must be collected.

The sorting facilities must also live up to certain criteria to assure that most of the collected packaging is recycled. Beginning with January 1, 1993, it must be proven that certain percentages of the total collected materials in specified categories are sorted out in quality grades that are capable of recycling. These specifications range from 70% for glass to 30% for plastic. However, beginning with July 1, 1995, 90% of the collected glass, tinplate, and aluminum must be sorted out, and 80% of the collected cardboard, paper, and plastic must be sorted out.

### **Industry's reaction to the Packaging Regulation**

German industry opted for the private system of waste collection and is busily engaged in efforts to meet the January 1, 1993, deadline calling for a collection of 50% of all consumer, transportation, and display packaging. Two systems are being implemented, one for consumer packaging and one for transportation and display packaging.

The consumer packaging system is organized in the form of a limited liability company in which 400 enterprises participate. The company, which is named *Duales System Deutschland (DDS) GmbH*, was scheduled to commence operations in several German cities on July 15, 1991. It is planned that more than 40 million Germans will have access to the system by the end of 1992. The DDS system collects consumer packaging in containers located throughout inhabited areas. Guarantees have been given that the packaging materials in the categories of glass, tin, aluminum, cardboard, paper, and plastic will be recycled. Beginning in September 1991, consumer packaging

---

<sup>4</sup> The average packaging consumed per inhabitant and per product type and area is established in three-year intervals by the Federal Government. These figures will be published for the first time by August 31, 1992 [Packaging Regulation, Appendix].

will be imprinted with a green dot, and extensive advertising campaigns will be carried out to inform the public of the collection system.

The recycling system for transportation and display packaging, called *Resy*, has been developed by the cardboard and packaging industries. Transportation packaging, which according to the regulation must be collected by December 1, 1991, will be collected from the retailers. The packaging that is collectable will be marked with a symbol containing three arrows. To date, the problems of the final disposal (through recycling or reuse) of transportation packaging have not as yet been resolved.<sup>5</sup>

Prepared by Edith Palmer  
Senior Legal Specialist  
European Law Division  
Law Library of Congress  
August 1991

---

<sup>5</sup> *Frankfurter Allgemeine Zeitung*, June 11, 1991, p. 12.