

**This unofficial version reflects the Packaging Ordinance as at 1 April 2009, date at which the Fifth Amending Ordinance entered into force in its entirety**

# **Packaging Ordinance<sup>1</sup>**

The Federal Government, acting pursuant to section 6 subsection (1), fourth sentence, section 23 Nos. 1, 2 and 6, section 24 subsection (1) Nos. 2, 3 and 4 and subsection (2) No. 1 and section 57, each in conjunction with section 59, and section 7 subsection (1) No. 3 and section 12 subsection (1) of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) of 27 September 1994 (Federal Law Gazette I p. 2705), having heard the parties concerned and having regard to the rights of the Bundestag, hereby decrees as follows:

## **Part I**

### **Waste Management Objectives, Scope and Definition of Terms**

#### **Section 1**

##### **Waste Management Objectives**

(1) The purpose of this Ordinance is to avoid or reduce the environmental impacts of waste arising from packaging. Packaging waste shall in the first instance be avoided; reuse of packaging, recycling and other forms of recovery shall otherwise take priority over the disposal of packaging waste. To achieve this purpose, this Ordinance shall regulate the market behaviour of all parties obligated under this Ordinance in such a way as to attain the waste management goals and at the same time protect economic operators from unfair competition.

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<sup>1</sup> Ordinance on the Avoidance and Recovery of Packaging Wastes (Packaging Ordinance - *Verpackungsverordnung - VerpackV*) of 21 August 1998 (Federal Law Gazette I p. 2379) as last amended by the Fifth Amending Ordinance of 2 April 2008 (Federal Law Gazette I p. 531)

(2) This Ordinance aims to increase to at least 80 per cent the share of beverages filled into reusable drinks packaging and ecologically advantageous one-way drinks packaging. The Federal Government shall conduct the necessary surveys on the respective shares and shall publish the results annually in the Federal Gazette. The Federal Government shall assess the impact on waste management of the provisions contained in section 9 by no later than 1 January 2010. The Federal Government shall report its findings to both the *Bundestag* and the *Bundesrat*.

(3) No later than 31 December 2008, the annual share of all packaging waste being recovered shall be at least 65 percent by weight and the share being recycled shall be at least 55 percent by weight. The recycling targets for the different materials contained in packaging shall be 15 percent by weight for wood, 22.5 for plastics, counting exclusively material that is recycled back into plastics, 50 for metals and 60 for glass, paper and cardboard. The Federal Government shall conduct the necessary surveys and inform the general public and the economic operators. Packaging waste exported out of the Community in accordance with Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ EC No. L 190 p.1), Regulation (EC) No. 1420/1999 of the Council and Regulation (EC) No. 1547/1999 of the Commission shall only count for the achievement of the obligations and targets of the first and second sentences above if there is sound evidence that the recovery or recycling operation took place under conditions that are broadly equivalent to those prescribed by the Community legislation on the matter.

## **Section 2**

### **Scope of Application**

(1) The Ordinance shall apply to all packaging put into circulation within the territorial scope of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*), regardless of whether it arises in industry, trade, administration, business, the service sector, households or elsewhere, and regardless of the materials of which it consists.

(2) This shall be without prejudice to any special requirements that may exist with regard to packaging or the management of packaging waste or the carriage of packaged products or of packaging waste.

(3) The powers of the Federal, *Land* and local authorities to require third parties to avoid and recover waste in the use of their facilities or land and in the special use of public roads shall not be affected.

**Section 3**  
**Definition of Terms**

(1) Within the meaning of this Ordinance the following definitions shall apply:

1. Packaging:  
Products manufactured from materials of any nature for the containment, protection, handling, delivery or presentation of goods, which may range from raw materials to processed products and are passed on by the manufacturer to the distributor or final consumer. The definition of “packaging” shall be further based on the criteria set out in Annex V. The items also listed in Annex V are illustrative examples of the application of these criteria.
  
2. Sales packaging:  
Packaging that is made available as a sales unit and arises at the final consumer. Sales packaging within the meaning of the Ordinance shall also include such packaging provided by retailers, restaurants and other service providers as facilitates or supports the transfer of goods to the final consumer (service packaging) and disposable dishes.
  
3. Secondary packaging:  
Packaging that is used as packaging additional to sales packaging and is not necessary for transfer to the final consumer for reasons of hygiene, durability or the protection of goods from damage or contamination.
  
4. Transport packaging:  
Packaging that facilitates the transport of goods, protects the goods from damage during transport or is used in the interest of transport safety and arises at the distributor.

(2) Drinks packaging within the meaning of this Ordinance is closed or mainly closed packaging for liquid foodstuffs within the meaning of section 2 subsection (2) of the Food and

Feed Code (*Lebensmittel- und Futtermittelgesetzbuch*) intended for consumption as drinks, with the exception of yoghurt and kefir.

(3) Reusable packaging within the meaning of this Ordinance is packaging that is intended to be reused several times for the same purpose. One-way packaging within the meaning of this Ordinance is packaging that is not reusable packaging.

(4) Ecologically advantageous one-way packaging within the meaning of this Ordinance is:

- Drinks carton packaging (brick packs, gable-top cartons, cylindrical packaging),
- Drinks packaging in the form of polyethylene bags,
- Stand-up bags.

(5) Composite packaging within the meaning of this Ordinance is packaging made of different materials which cannot be separated manually and none of which exceeds a share of 95 percent by weight.

(6) Emptied packaging within the meaning of this Ordinance is packaging of which the contents have been exhausted in the designated manner.

(7) Pollutant-containing products within the meaning of this Ordinance are

1. substances and preparations which if sold in the retail trade would be subject to the ban on self-service pursuant to section 4 subsection (1) of the Chemicals Prohibition Ordinance (*Chemikalienverbotsverordnung*);
2. plant protection products within the meaning of section 2 No. 9 of the Plant Protection Act (*Pflanzenschutzgesetz*) which under the Hazardous Substances Ordinance (*Gefahrstoffverordnung*) are labelled
  - a) as very toxic, toxic, oxidising or highly flammable or
  - b) as harmful to health and labelled with R-phrases R 40, R 62, R 63 or R 68,
3. preparations of diphenylmethane-4,4'-diisocyanate (MDI), insofar as such preparations are to be labelled as harmful to health and with R-phrase R 42 pursuant to the Hazardous Substances Ordinance (*Gefahrstoffverordnung*) and are put into circulation in pressurised gas packaging.

(8) Manufacturer within the meaning of this Ordinance is anyone who manufactures packaging, packaging materials or products from which packaging is directly manufactured, and anyone who imports packaging into the territorial scope of this Ordinance.

(9) Distributor within the meaning of this Ordinance is anyone who puts into circulation packaging, packaging materials or products from which packaging can be directly manufactured, or goods in packaging, at whatever level of trade. Distributor within the meaning of this Ordinance also includes the mail-order trade.

(10) The catchment area of the manufacturer or distributor shall be taken to be the territory of the state in which the goods in packaging are put into circulation.

(11) Final consumer within the meaning of this Ordinance is anyone who does not further resell the goods in the form delivered to him. Private final consumers within the meaning of this Ordinance are households and comparable places where packaging arises, especially restaurants, hotels, canteens, administrations, barracks, hospitals, educational establishments, charitable institutions, premises used by members of the liberal professions and typical places in the cultural sector where packaging arises, such as cinemas, opera houses and museums, as well as typical places in the leisure sector where packaging arises, such as holiday complexes, leisure parks, sports stadiums and service areas. Comparable places within the meaning of the second sentence above include farms and craft trade businesses from which the removal of waste can take place via standard household collection containers for paper, cardboard and light packaging by means of not more than one 1100-litre emptiable container per substance group at the usual household collection intervals.

## **Part II**

### **Obligation to Accept Returned Packaging, Charge Deposits and Recover Packaging**

#### **Section 4**

#### **Obligation to Accept Returned Transport Packaging**

(1) Manufacturers and distributors shall be obligated to accept returned transport packaging after use. In the context of repeated deliveries, such acceptance may take place at one of the next deliveries.

(2) The returned transport packaging shall be reused or recycled insofar as this is technically possible and economically reasonable (section 5 subsection (4) of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*)), and especially where a market for a recovered substance exists or can be created. In the case of transport packaging manufactured directly from renewable raw materials, energy recovery shall be deemed equivalent to recycling.

## **Section 5**

### **Obligation to Accept Returned Secondary Packaging**

(1) Distributors providing goods in secondary packaging shall be obligated to remove such secondary packaging upon delivery of the goods to the final consumer or to give the final consumer the opportunity to remove and return the secondary packaging free of charge at the point of sale or on the premises of the point of sale. This shall not apply if the final consumer desires the goods to be handed over in the secondary packaging; in this case the provisions concerning acceptance of returned sales packaging shall apply *mutatis mutandis*.

(2) If the distributor does not remove the secondary packaging himself, he shall be obligated to indicate, by means of clearly recognisable and legible signs at the cash desk, that the final consumer has the opportunity, either at the point of sale or on the premises of the point of sale, to remove the secondary packaging from the acquired goods and to leave it there.

(3) The distributor shall be obligated to provide at the point of sale or on the premises of the point of sale suitable collection containers to accommodate the secondary packaging which are clearly visible and easily accessible to the final consumer. Individual material groups shall be collected separately insofar as this is possible without labelling. The distributor shall be obligated to consign secondary packaging to reuse or recycling. Section 4 subsection (2) shall apply *mutatis mutandis*.

## **Section 6**

## **Obligation to Ensure the Collection of Sales Packaging Arising at the Private Consumer on a Full-Coverage Basis**

(1) Manufacturers and distributors who put sales packaging filled with product and typically arising at the private final consumer into circulation for the first time, shall take part in one or several compliance schemes pursuant to subsection (3) below to ensure the collection of such sales packaging on a full-coverage basis. Notwithstanding the first sentence above, distributors who put service packaging within the meaning of section 3 subsection (1) No. 2, second sentence, filled with product and typically arising at the private final consumer into circulation for the first time, shall be permitted to require that the manufacturers or distributors or upstream distributors of such service packaging take part in one or several compliance schemes pursuant to subsection (3) below with regard to the service packaging they provide. Sales packaging pursuant to the first sentence above may only be transferred to private final consumers if the manufacturers and distributors take part in a compliance scheme pursuant to subsection (3) below with regard to such packaging. For the purpose of ensuring equal terms of competition for all parties obligated under the first sentence above and of receiving reimbursement of their expenses, compliance schemes pursuant to subsection (3) below may also charge those manufacturers and distributors who do not take part in any compliance scheme for the cost of collecting, sorting, recovering or disposing of the packaging put into circulation by such persons and recovered by the compliance scheme. Where a distributor can prove that he has taken back, at the place of transfer, the sales packaging which he had put into circulation and transferred to private final consumers and that he has consigned it at his own cost to recovery in accordance with the requirements set out in No. 1 of Annex I, he can reclaim the fees paid for participation in a compliance scheme pursuant to subsection (3) below. The fifth sentence shall apply *mutatis mutandis* to sales packaging put into circulation by another distributor if this sales packaging is of such type, form and size and used for such products as the distributor supplies in his own product range. The proof pursuant to the fifth sentence above shall meet the requirements set out in No. 4, first to fourth and eighth sentences, of Annex I.

(2) The obligation pursuant to subsection (1) above shall not apply where manufacturers and distributors themselves accept returned packaging they put into circulation at places where packaging arises and which are considered as comparable to private households pursuant to section 3 subsection (11), second and third sentences, at those same places in accordance with section 8, first sentence, and consign it to recovery and where the manufacturer or distributor

or a third party they have commissioned to do so produces a certificate of from an independent expert, verifying that they

1. have set up adequate sector-specific collection structures in the respective *Länder* ensuring regular free of charge collection of packaging in accordance with section 8, first sentence, at all places where packaging arises pursuant to section 3 subsection (11), second and third sentences, and which have been provided with packaging by the manufacturers and distributors, account being taken of existing sector-specific collection structures for sales packaging pursuant to section 7 subsection (1),

2. ensure recovery of the sales packaging in accordance with the requirements set out in Nos. 1 and 4 of Annex I without including in the mass flow verification sales packaging other than the packaging or transport and secondary packaging distributed in the sector in question by participating manufacturers and distributors.

The certificate by the independent expert shall be presented to the competent highest *Land* authority or the authority it designates at least one month before collection starts. The start of the collection shall be notified in writing. Notwithstanding the second and third sentences above, manufacturers, distributors or their agents who, on 1 January 2009, carry out their own recovery operations in conformity with the requirements set out in the first sentence above shall submit the certificate to the competent authority within 30 calendar days after 1 January 2009. Subsection (5), third sentence, and No. 1, No. 2 subsection (4) and No. 4 of Annex I shall apply *mutatis mutandis*.

(3) A compliance scheme shall ensure adequate regular free of charge collection of used and emptied sales packaging from or in the vicinity of the private final consumer throughout the catchment area of the obligated distributor on a full-coverage basis and shall comply with the requirements set out in Annex I. A compliance scheme (scheme operator, applicant) pursuant to the first sentence above shall consign the packaging entering such a collection system to recovery in accordance with the requirements set out in No. 1 of Annex I and shall meet the requirements set out in Nos. 2 and 3 of Annex I. Several compliance schemes can cooperate in the setting up and operation of their compliance schemes.

(4) A compliance scheme pursuant to subsection (3) above shall be coordinated with existing collection schemes run by the public bodies responsible for waste management in whose area



it is set up. Such coordination shall be a prerequisite for the pronouncement pursuant to subsection (5), first sentence. It shall take place in writing. Special attention shall be paid to the interests of the public bodies responsible for waste management. The public bodies responsible for waste management may demand the takeover or joint use, for a suitable fee, of facilities required for collecting materials of the type referred to in Annex I to this Ordinance. Scheme operators may demand that the public bodies responsible for waste management allow them the joint use of these facilities for a suitable fee. In the coordination process, public bodies responsible for waste management may demand collection of non-packaging waste of the same material type for a suitable fee. Scheme operators shall be obligated to bear a share of the costs incurred by the public bodies responsible for waste management as a result of giving waste management advice for their respective compliance schemes and of setting up, allocating, maintaining and cleaning areas for the siting of large collection containers. The coordination shall not conflict with the awarding of contracts for waste management services on a competitive basis. The compliance scheme can accept the coordination agreement already in force in the area of a public body responsible for waste management without the latter having the right to demand new coordination. For each essential change in the framework conditions for the operation of the compliance scheme in the area of the public body responsible for waste management, the latter can demand an appropriate adjustment of the coordination agreement pursuant to the first sentence above.

(5) The highest *Land* authority responsible for waste management or the authority it designates shall, on application by the scheme operator, pronounce that a compliance scheme pursuant to subsection (3) above has been set up on a full-coverage basis. Such pronouncement pursuant to the first sentence above may subsequently be made the subject of collateral clauses that are necessary to ensure that the conditions applying at the time the pronouncement was made are maintained on a long-term basis during the operation of the compliance scheme. The highest *Land* authority responsible for waste management or the authority it designates may require at the time the pronouncement pursuant to the first sentence above is made or afterwards that the scheme operator provides appropriate insolvency-proof security in case he or his representatives cannot meet the obligations under this Ordinance, fully or in part, and the public bodies responsible for waste management or the competent authorities can claim reimbursement of costs for the performance of the necessary substitute measures. The pronouncement shall be made public and shall take effect upon its publication.

(6) The competent authority may revoke its pronouncement pursuant to subsection (5), first sentence, wholly or in part, if it ascertains that the requirements specified in subsection (3) above are not met. It shall make the revocation public. The revocation shall be limited to packaging made of certain materials if only this packaging does not meet the recovery quotas specified in Annex I. The competent authority may furthermore revoke its pronouncement pursuant to subsection (5), first sentence, if it ascertains that the operation of the compliance scheme has been discontinued.

(7) Compliance schemes shall take part in a joint body. This joint body shall have the following tasks in particular:

1. Assessment of the quantities of packaging of several compliance schemes in the area of a public body responsible for waste management to be assigned on a pro rata basis,
2. Allocation of the coordinated supplementary fees,
3. Coordination of tendering in a way that does not distort competition.

The pronouncement pursuant to subsection (5) above shall become ineffective if a compliance scheme does not take part in a joint body within three months after the pronouncement has been made. The joint body shall ensure that all compliance schemes have equal access to it and that provisions on the protection of personal data and of trade and business secrets are met. If decisions affect public bodies responsible for waste management the joint body shall hear the municipal umbrella organisations.

(8) If no compliance scheme pursuant to subsection (3) has been established, all final distributors shall be obligated to accept free of charge used and emptied sales packaging returned by the final consumer at or in the immediate vicinity of the place of actual transfer, to consign it to recovery in accordance with the requirements set out in No. 1 of Annex I and to meet the requirements of No. 4 of Annex I. The recovery requirements may also be met by reuse or transfer to upstream distributors or manufacturers. The final distributor must draw the attention of the final consumer, by means of clearly recognisable and legible notices, to the opportunity to return sales packaging as set out in the first sentence above. The obligation

under the first sentence above shall be limited to packaging of such type, form and size and to packaging of such goods as the distributor supplies in his own product range. In the case of distributors with sales areas of less than 200 m<sup>2</sup>, the obligation to accept returned sales packaging shall be limited to the packaging of brands put into circulation by the distributor. In the case of the second sentence above, manufacturers and upstream distributors of packaging pursuant to subsection (1), first sentence, shall be obligated to accept free of charge returned packaging accepted pursuant to the first sentence above at the place of actual transfer, to consign it to recovery in accordance with the requirements set out in No. 1 of Annex I and to meet the requirements of No. 4 of Annex I. Different arrangements may be agreed regarding the place of return and the allocation of costs. The recovery requirements may also be met by means of reuse. The fourth and fifth sentences above shall apply *mutatis mutandis*.

(9) Subsections (1) to (8) shall not apply to sales packaging of pollutant-containing products within the meaning of section 8 nor to one-way drinks packaging subject to a compulsory deposit within the meaning of section 9. This shall be without prejudice to No. 3 subsection (1) of Annex I.

(10) This provision shall not apply to reusable packaging.

## **Section 7**

### **Obligation to Accept Returned Sales Packaging Not Arising at the Private Final Consumer**

(1) Final distributors of sales packaging not arising at the private final consumer shall be obligated to accept free of charge used and emptied sales packaging returned by the final consumer at or in the immediate vicinity of the place of actual transfer and to consign it to recovery. Section 4 subsection (2) shall apply *mutatis mutandis*. The obligation pursuant to the first sentence above shall be limited to packaging of such type, form and size and to packaging of such goods as the distributor supplies in his own product range. Different arrangements may be agreed regarding the place of return and the allocation of costs.

(2) Manufacturers and upstream distributors of packaging pursuant to subsection (1), first sentence above shall be obligated to accept free of charge returned packaging accepted pursuant to subsection (1) at the place of actual transfer and to consign it to recovery. Subsection (1), second to fourth sentences shall apply *mutatis mutandis*.

(3) Manufacturers and distributors pursuant to subsections (1) and (2) can cooperate in fulfilling their obligations under this Ordinance.

## **Section 8**

### **Obligation to Accept Returned Sales Packaging of Pollutant-Containing Products**

(1) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obligated to take suitable measures to ensure that used and emptied packaging can be returned by the final consumer free of charge within a reasonable distance. They must draw attention to this opportunity to return packaging by means of clearly recognisable and legible notices at the point of sale, and in the mail-order trade by means of other suitable measures. Where sales packaging arises other than at private final consumers, different arrangements may be agreed regarding the place of return and the allocation of costs.

(2) The returned packaging shall be consigned to reuse or recovery, packaging pursuant to section 3 subsection (7) No. 3 to recycling, insofar as this is technically possible and economically reasonable.

(3) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obligated to comply *mutatis mutandis* with the requirements set out in No. 4, sentences 1 to 5, of Annex I. The documentation shall be presented on request to the authority responsible for the enforcement of waste law in the area where the manufacturer or distributor is located. No. 4, sentences 13 and 14, of Annex I shall apply *mutatis mutandis*.

## **Section 9**

### **Obligation to Charge Deposits On and Accept Returned One-Way Drinks Packaging**

(1) Distributors who put drinks into circulation in one-way drinks packaging with a filling volume of between 0.1 and 3 litres shall be obligated to charge the purchaser a deposit of at least 25 Euro cents including value-added tax per drinks pack. The first sentence above shall not apply to packaging sold to final consumers outside the territorial scope of this Ordinance. The deposit shall be charged by each further distributor at each distribution level until transfer to the final consumer. Distributors shall mark drinks in one-way drinks packaging subject to a compulsory deposit pursuant to the first sentence above as being subject to such deposit in a clearly legible way and in a conspicuous place and shall take part in a nation-wide deposit scheme that allows members of the scheme to manage deposit return claims among themselves. The deposit shall be refunded on acceptance of the returned packaging. Deposits shall not be refunded without packaging being returned. Section 6 subsection (8) shall apply *mutatis mutandis* to the acceptance of returned packaging. For packaging subject to a compulsory deposit under the first sentence above, in place of section 6 subsection (8), fourth sentence, the obligation to accept returned packaging pursuant to section 6 subsection (8), first sentence shall be limited to packaging of the material type (glass, metals, paper, cardboard or plastics, including all composite packaging containing these main materials) put into circulation by the distributor. For sales from vending machines, distributors shall provide a suitable system for accepting returned packaging and refunding deposits within a reasonable distance from the vending machines. Returned one-way drinks packaging within the meaning of the first sentence above shall primarily be consigned to recycling.

(2) Subsection (1) shall only apply to one-way drinks packaging which is not ecologically advantageous within the meaning of section 3 subsection (4) and which contains the following beverages:

1. Beer (including alcohol-free beer) and mixed drinks containing beer,
2. Mineral waters, spring waters, table waters and remedial waters as well as all other types of drinkable water,
3. Carbonated and non-carbonated soft drinks (specifically lemonades, including cola drinks, fizzy drinks, bitter drinks and ice-tea). Fruit juices, fruit nectars, vegetable juices, vegetable nectars, drinks with a minimum of 50 per cent milk or other milk-derived products and mixes of such drinks as well as dietetic drinks within the meaning of section 1 subsection (2) (c) of the Ordinance on Dietetic Foodstuffs (*Diätverordnung*) offered for sale exclusively for babies and small children, shall not be soft drinks within the meaning of sentence 1.
4. Mixed alcoholic drinks
  - a) produced using
    - aa) products which are subject to spirits tax under section 130 subsection (1) of the Federal Spirits Monopoly Act (*Branntweinmonopolgesetz*) or
    - bb) fermentation alcohol made from beer, wine or wine-like products, including in processed form, which has undergone technical treatment no longer meeting the requirements for good manufacturing practice and contains less than 15 per cent alcohol per volume or
    - containing less than 50 per cent wine or wine-like products, including in processed form.

(3) Manufacturers and distributors of ecologically advantageous one-way drinks packaging as well as of one-way drinks packaging which is not subject to a compulsory deposit pursuant to subsection (2) above shall be obligated to take part in a compliance scheme pursuant to section 6 subsection (3) insofar as such packaging arises at the private final consumer.

## **Section 10**

### **Declaration of Compliance for Sales Packaging put into Circulation**

(1) By 1 May each year, all actors putting sales packaging pursuant to section 6 into circulation shall be obligated to submit a declaration of compliance, audited by an accountant, tax consultant, registered auditor or independent expert pursuant to No. 2 subsection (4) of Annex I for all sales packaging they have filled with product and put into circulation for the first time in the previous calendar year, and to deposit it in accordance with subsection (5).

(2) The declaration shall contain information on

1. the type of material and the mass of the sales packaging according to sections 6 and 7 put into circulation in the previous calendar year, with separate information on the material types enumerated in No. 1 subsection (2) of Annex I,
2. the participation in compliance schemes pursuant to section 6 subsection (3) for the sales packaging destined to arise at private final consumers,
3. the type of material and the mass of the sales packaging put into circulation in the previous calendar year according to section 6 subsection (2), including the name of the person depositing the evidence pursuant to No. 4 of Annex I,
4. compliance with the recovery requirements pursuant to section 7.

(3) Distributors putting into circulation for the first time service sales packaging filled with product within the meaning of section 3 subsection (1) No. 2, second sentence, which typically arises at the private final consumer, can demand that the manufacturers or distributors or upstream distributors of such service packaging assume the obligation pursuant to subsection (1), first sentence, insofar as they take part in one or several compliance schemes pursuant to section 6 subsection (3) with respect to the service packaging they provide.

(4) Manufacturers and distributors putting into circulation sales packaging pursuant to section 6 in quantities exceeding 80,000 kg per calendar year for packaging made of glass or exceeding 50,000 kg for packaging made of paper and cardboard or exceeding 30,000 kg for packaging made of the other material types enumerated in No.1 subsection (2) of Annex I, shall submit a declaration of compliance pursuant to subsection (1) at annual intervals. If the amount is below the threshold quantities set out in the first sentence above, declarations of compliance shall only be submitted if the authorities responsible for waste management control so request.

(5) Manufacturers and distributors shall deposit the declaration of compliance with the local Chamber of Industry and Commerce electronically for a period of three years in accordance with the requirements set out in Annex VI. The audit certificate pursuant to subsection (1), first sentence, established by an accountant, tax consultant, registered auditor or independent expert pursuant to No. 2 subsection (4) of Annex I shall bear a qualified digital signature in

accordance with section 2 of the Digital Signature Act (*Signaturgesetz*). The local Chambers of Industry and Commerce shall be in charge of operating the depository. They shall inform the public regularly via the internet on who has submitted a declaration of compliance. They shall allow any authority responsible for the control of waste management provisions to consult the declarations of compliance deposited. For the purpose of complying with their obligations pursuant to this subsection, they shall make use of the body designated pursuant to section 32 subsection (2) of the Environmental Audit Act (*Umweltauditgesetz*) in the version promulgated on 4 September 2002 (Federal Law Gazette I p. 3490), as last amended by Article 8 subsection (1) of the Act of 4 December 2004 (Federal Law Gazette I p. 3166).

(6) Compliance schemes (scheme operators, applicants) pursuant to section 6 subsection (3) shall be obligated to deposit the information pursuant to subsection (2) No. 2 on participation in their scheme for the previous calendar year with the organisation mentioned in subsection (5), sixth sentence, by 1 May each year. Subsection (5), fifth sentence, shall apply *mutatis mutandis*.

(7) Compliance schemes pursuant to section 6 subsection (3) shall reimburse the body pursuant to subsection (5), sixth sentence, for the necessary costs and outlays for depositions pursuant to subsections (5) and (6) and the establishment and operation of the depository. The body pursuant to subsection (5), sixth sentence, shall determine the proportionate cost for the individual compliance schemes pursuant to section 6 subsection (3) as corresponds to the proportion of the number of scheme participations they have submitted in accordance with subsection (6). In this sense, compliance schemes pursuant to section 6 subsection (3) shall be jointly and severally liable.

## **Section 11**

### **Authorisation of Third Parties**

Manufacturers and distributors may call upon third parties to fulfil the obligations laid down in this Ordinance. Acceptance of returned packaging and refunding of deposits may also be performed by machine. Section 16 subsection (1), second and third sentences, of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) shall apply *mutatis mutandis*.



**Part III**  
**Manufacture, Putting into Circulation and Labelling of Packaging**

**Section 12**  
**General Requirements**

Packaging shall be manufactured and distributed such that

1. pack volume and weight are reduced to the minimum commensurate with maintaining the necessary safety and hygiene of the packaged product and ensuring that it is acceptable to the consumer;
2. it may be reused or recovered and the environmental impacts arising from the recovery or disposal of packaging waste are minimised;
3. harmful and hazardous substances and materials occurring in emissions, ash or leachate on disposal of packaging or packaging components are minimised.

**Section 13**  
**Heavy Metal Concentrations**

(1) Packaging or packaging components may only be put into circulation if the cumulative concentration of lead, cadmium, mercury and hexavalent chromium does not exceed 100 milligrammes per kilogramme.

(2) Subsection (1) above shall not apply to

1. packaging manufactured entirely from lead crystal glass,
2. packaging in established systems for reuse,
3. plastic crates or plastic pallets that meet the requirements of Annex II.

(3) Notwithstanding the provisions of subsection (1) above, a limit value of 250 milligrammes per kilogramme shall apply to packaging made from miscellaneous glass that complies with the conditions of Annex III.

**Section 14**  
**Marking**

To identify the material, packaging may be marked with the numbers and abbreviations laid down in Annex IV. The use of other numbers and abbreviations to identify the same materials shall not be permitted.

## **Part IV**

### **Administrative Offences, Transitional and Concluding Provisions**

#### **Section 15**

##### **Administrative Offences**

An administrative offence within the meaning of section 61 subsection (1) No. 5 of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) shall be deemed to be committed by any person who deliberately or negligently

1. in contravention of section 4 subsection (1), first sentence, or subsection (2), first sentence, fails to accept returned packaging after use or to do so in time or to consign it to reuse or recycling,
2. in contravention of section 5 subsection (1), first sentence, fails to remove secondary packaging or to do so in time and fails to give the final consumer the opportunity to remove or return secondary packaging,
3. in contravention of section 5 subsection (2), section 6 subsection (8), third sentence, or section 8 subsection (1), second sentence, fails to draw the attention to the opportunity to return packaging or to do so properly or completely,
4. in contravention of section 5 subsection (3), first sentence, fails to provide collection containers or to provide them in the prescribed manner,
5. in contravention of section 5 subsection (3), third sentence fails to consign secondary packaging to reuse or recycling,
6. in contravention of section 6 subsection (1), first sentence, fails to take part in a compliance scheme mentioned therein,

7. in contravention of section 6 subsection (1), third sentence, transfers packaging to final consumers,
8. in contravention of section 6 subsection (2), fifth sentence, in conjunction with No. 4, second or third sentence of Annex I, fails to draw up documentation or to do so properly, completely or in time,
9. in contravention of section 6 subsection (2), fifth sentence, in conjunction with No. 4, ninth sentence of Annex I, fails to deposit a certificate or to do so properly, completely or in time,
10. in contravention of section 6 subsection (2), fifth sentence, in conjunction with No. 4, eleventh sentence of Annex I, fails to submit documentation or to do so in time,
11. in contravention of section 6 subsection (3), second sentence, fails to consign packaging to recovery,
12. in contravention of section 6 subsection (3), second sentence, in conjunction with No. 2 subsection (1), first sentence of Annex I, fails to ensure the collection of packaging,
13. in contravention of section 6 subsection (3), second sentence, in conjunction with No. 2 subsection (3), third sentence of Annex I, fails to furnish evidence or to do so properly, completely or in time,
14. in contravention of section 6 subsection (3), second sentence, in conjunction with No. 2 subsection (3), fifth sentence of Annex I, fails to deposit a certificate or to do so properly, completely or in time,
15. in contravention of section 6 subsection (3), second sentence, in conjunction with No. 2 subsection (3), seventh sentence of Annex I, fails to present evidence or to do so in time,

16. in contravention of section 6 subsection (3), second sentence, in conjunction with No. 3 subsection (3), first sentence of Annex I, fails to furnish evidence or to do so properly, completely or in time,
17. in contravention of section 6 subsection (8), first or sixth sentence, fails to accept returned sales packaging or to consign it to recovery,
18. in contravention of section 6 subsection (8), first or sixth sentence, each in conjunction with No. 4, second or third sentence of Annex I, fails to draw up documentation or to do so properly, completely or in time,
19. in contravention of section 6 subsection (8), first or sixth sentence, each in conjunction with No. 4, ninth sentence of Annex I, fails to deposit a certificate or to do so properly, completely or in time,
20. in contravention of section 6 subsection (8), first or sixth sentence, each in conjunction with No. 4, eleventh sentence of Annex I, fails to present documentation or to do so in time,
21. in contravention of section 7 subsection (1), first sentence, or subsection (2), first sentence, fails to accept returned sales packaging or to consign it to recovery,
22. in contravention of section 8 subsection (1), first sentence, fails to ensure that packaging can be returned,
23. in contravention of section 8 subsection (2), fails to consign returned packaging to reuse or recovery,
24. in contravention of section 8 subsection (3), first sentence, in conjunction with No. 4, second or third sentence of Annex I, fails to draw up documentation or to do so properly, completely or in time,
25. in contravention of section 8 subsection (3), second sentence, fails to present documentation or to do so in time,

26. in contravention of section 9 subsection (1), first, third or fifth sentence, fails to charge a deposit or to refund it or to do so in time,
27. in contravention of section 9 subsection (1), fourth sentence, fails to mark a one-way drinks packaging or to do so properly or in time or to take part in a nation-wide deposit scheme,
28. in contravention of section 9 subsection (1), sixth sentence, refunds a deposit without the packaging being returned,
29. in contravention of section 10 subsection (1), first sentence, fails to submit a declaration of compliance or to do so properly, completely or in time or to deposit it or to do so properly, completely, in the prescribed way or in time,
30. in contravention of section 10 subsection (6), first sentence, fails to submit information or to do so properly, completely or in time,
31. in contravention of section 13 subsection (1) puts into circulation packaging or parts thereof,
32. in contravention of section 14, second sentence, uses other numbers or abbreviations.

**Section 16**  
**Transitional Provisions**

(1) Packaging that was used for goods before the entry into force of this Ordinance may be put into circulation notwithstanding sections 13 and 14.

(2) Until 31 December 2012, sections 6 and 7 shall not apply to plastic packaging made from biodegradable materials, all components of which are deemed compostable according to producer-independent certification conducted using recognised standards. Producers and distributors shall ensure that the share of packaging recovered is as high as possible. Until 31 December 2012, section 9 shall not apply to plastic one-way drinks packaging complying with the provisions of the first sentence above and made from renewable resources to at least 75 percent, insofar as manufacturers and distributors take part in one or several compliance schemes under section 6 subsection (3) with respect to this packaging. Compliance with the condition stated in the third sentence above, according to which the one-way drinks package must be made of at least 75 percent renewable resources, must be verified by an independent expert within the meaning of No. 2 subsection (4) of Annex I. In other respects section 9 shall remain unaffected. In the case described in the third sentence and where one-way drinks packaging made from biodegradable plastics pursuant to the first sentence above is not subject to the mandatory deposit pursuant to section 9 subsection (2), in derogation from the first sentence above, manufacturers and distributors shall take part in a compliance scheme pursuant to section 6 subsection (3) with respect to this packaging insofar as the packaging arises at the private final consumer.

(3) Section 10 shall apply subject to the proviso that the declaration pursuant to section 10 subsection (1) shall be deposited for the first time by 1 May 2009 for packaging put into circulation in 2008 on or after 5 April 2008.

The *Bundesrat* has given its consent.

**Annex I**  
(to section 6)

**1. Requirements for Recovery of Sales Packaging Arising at the Private Final Consumer**

(1) Compliance schemes pursuant to section 6 subsection (3) shall meet the recovery requirements set out in subsections (2) to (4) below for the packaging with regard to which manufacturers and distributors take part in their scheme.

(2) On average for the year, at least the following quantities of packaging in percent by weight must be consigned to recycling:

**Material**

Glass	75 %
Tinplate	70 %
Aluminium	60 %
Paper, cardboard	70 %
Composites	60 %

Where composites are consigned to a separate recovery channel, separate evidence of the quota pursuant to the first sentence above shall be permissible. For composites which are collected and consigned to recovery in one of the streams of the above-mentioned main materials, the quota pursuant to the first sentence above shall be verified by suitable sampling. It must be ensured that composites are recycled with their principal material component unless recycling of a different material component approximates more closely to the objectives of closed substance cycle management, and that the other components are also recovered. At least 60 percent of plastic packaging must be consigned to recovery and at least 60 percent of this recovery quota shall be ensured by processes in which new material of the same substance is replaced or the plastic remains available for further use as a material (mechanical recycling).

(3) Packaging made from materials for which no definite recovery quotas are specified shall be consigned to recycling insofar as this is technically possible and economically reasonable.

In the case of packaging manufactured directly from renewable raw materials, energy recovery shall be deemed equivalent to recycling.

(4) Notwithstanding subsection (2) above, the quantity of packaging actually collected shall be consigned to recovery insofar as this is technically possible and economically reasonable. This provision shall also apply where facilities of the public bodies responsible for waste management are jointly used in accordance with section 6 subsection (4). It shall otherwise be disposed of in accordance with the principles of waste disposal commensurate with the public good pursuant to sections 10 and 11 of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*); where it is not disposed of in installations of its own or where overriding public interests so require, it shall be made available to the public bodies responsible for waste management.

## **2. General Requirements for Compliance Schemes pursuant to section 6 subsection (3)**

(1) Operators of compliance schemes pursuant to section 6 subsection (3) shall ensure that packaging is collected from the private final consumer (“kerbside systems”) or collected from the vicinity of the private final consumer by means of suitable collection systems (“drop-off systems”), or by a combination of the two systems. The collection systems must be designed to ensure regular collection of all packaging covered by the compliance scheme. Collection shall be confined to private final consumers.

(2) Operators of compliance schemes pursuant to section 6 subsection (3) shall ensure that

1. recovery capacity actually exists for the packaging entering the compliance scheme,
2. the materials recovery requirements set out in No. 1 of this Annex are shown to be met and
3. in the event that operation of the compliance scheme is discontinued, the packaging actually collected by the compliance scheme’s collection facilities shall be recovered or disposed of.

(3) Operators of compliance schemes pursuant to section 6 subsection (3) shall furnish verifiable evidence of the quantities collected and the quantities consigned to recycling and to energy recovery. The evidence shall include a verifiable account of the quantities collected in the individual *Länder*. Such evidence shall be furnished by 1 May of the following year on the basis of the quantity of packaging fed into the compliance scheme as shown by the applicant,



broken down by packaging materials. Compliance with the collection and recovery requirements shall be certified by an independent expert pursuant to subsection (4) below on the basis of the evidence furnished. The certificate shall be deposited by the scheme operator with the body designated pursuant to section 32 subsection (2) of the Environmental Audit Act (*Umweltauditgesetz*) no later than 1 June. The certificate shall be submitted by this body to the highest *Land* authority responsible for waste management or to the authority it designates. The corresponding evidence pursuant to the first sentence above shall be presented to the authority on request.

(4) An independent expert within the meaning of subsection (3) above is

1. a person whose qualifications have been ascertained by a member of the German Accreditation Council (*Deutscher Akkreditierungsrat*) in a generally recognised procedure,
2. an independent environmental verifier pursuant to section 9 or an environmental verification organisation pursuant to section 10 of the Environmental Audit Act (*Umweltauditgesetz*) or
3. a person publicly appointed pursuant to section 36 of the Trade Code (*Gewerbeordnung*).

### **3. Participation in Compliance Schemes pursuant to Section 6 Subsection (3)**

(1) As a basic principle, packaging of products within the meaning of section 8 may not be fed into compliance schemes pursuant to section 6 subsection (3). The applicant may include such packaging in his compliance scheme if manufacturers or distributors present *prima facie* evidence of its compatibility with the compliance scheme in the form of an expert opinion by an independent expert which takes normal consumer behaviour into account.

(2) The scheme operator shall furnish the participating manufacturers and distributors with confirmation of their participation in the compliance scheme.

(3) The applicant shall by 1 May each year furnish the application authority with evidence of the extent to which manufacturers or distributors have fed sales packaging into his compliance scheme in the previous year within the territorial scope of this Ordinance. Such evidence, broken down by packaging materials, shall be certified by an auditor. All packaging with

regard to which the manufacturers or distributors take part in the compliance scheme shall be deemed to have been fed into the compliance scheme.

(4) The application authority may, at the applicant's expense, perform an inspection of the evidence itself or have such inspection performed by a suitable institution. Insofar as there is reason to fear that the inclusion of packaging in the compliance scheme may result in adverse impacts on the public good, and especially on people's health and well-being, the application authority may demand that the applicant produce *prima facie* evidence of the compatibility of the relevant packaging with the compliance scheme. In individual cases the application authority may prohibit the inclusion of the packaging if no *prima facie* evidence of its compatibility with the compliance scheme is produced.

#### **4. General Requirements for Obligated Parties pursuant to Section 6 Subsection (8)**

Manufacturers and distributors obligated to accept returned packaging pursuant to section 6 subsection (8) shall furnish evidence of compliance with the acceptance and recovery requirements. To this end they shall by 1 May each year draw up verifiable documentation of the sales packaging put into circulation and returned and recovered in the previous calendar year. Such documentation shall be drawn up in terms of weight, broken down by individual packaging materials. Reusable packaging and return one-way drinks packaging for which a deposit is charged pursuant to section 9 subsection (1), first sentence, shall not be included in the documentation. Cooperation between several manufacturers and distributors shall be permissible. Each of these manufacturers and distributors shall ensure compliance with the acceptance and recovery requirements pursuant to section 6 subsection (8) by creating the appropriate collection and recovery structures. In this case, it is sufficient that the cooperating manufacturers and distributors comply with the recovery requirements as a group.

Compliance with the acceptance and recovery requirements shall be certified by an independent expert pursuant to No. 2 subsection (4) above on the basis of the documentation.

The certificate of compliance shall be deposited by the obligated manufacturers and distributors with the body designated pursuant to section 32 subsection (2) of the Environmental Audit Act (*Umweltauditgesetz*) no later than 1 June. The certificate shall be presented by the body referred to in the ninth sentence above to the highest *Land* authority responsible for waste management or the authority it designates. The corresponding documentation pursuant to the second and third sentences above shall be presented to the

competent authority on request. In the case of a cooperation between several manufacturers and distributors pursuant to the fifth sentence above, the certificate shall identify all cooperating manufacturers and distributors with names and headquarters. Distributors with a sales area of less than 200 m<sup>2</sup> who are obligated to accept returned packaging pursuant to section 6 subsection (8) may invoke the certificate for the preceding distribution level. In the case of manufacturers and distributors with several branches, the sales area shall be the total area of all branches.

## **Annex II**

(to section 13 subsection (2))

### **Specification of conditions under which plastic crates and plastic pallets are exempted from the limit values for heavy metals laid down in section 13 subsection (1)**

#### **No. 1 Scope of Application**

The limit value laid down for heavy metals in section 13 subsection (1) shall not apply to plastic crates and plastic pallets used in product loops which are in a closed and controlled chain.

#### **No. 2 Definition of Terms**

For the purposes of this specification, the following definitions shall apply:

- “Intentional introduction”:

The act of deliberately utilising a substance in the formulation of a packaging or a packaging component where its continued presence is desired in the packaging or packaging component to provide a specific characteristic, appearance or quality. The use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of regulated metals, is not considered intentional introduction.

- “Incidental presence”:  
The presence of a metal as an unintended ingredient of a packaging or packaging component.
  
- “Product loops which are in a closed and controlled chain”:  
Product loops in which products circulate with a controlled reuse and distribution system and in which the recycled material originates only from these entities in the chain so that the introduction of external material is just the minimum technically feasible and from which these entities may only be removed in a specially authorised procedure so that return rates are maximised.

### **No. 3 Manufacture and labelling**

- (1) Manufacture shall follow a controlled process of substance recycling in which the recycled material is produced using solely plastic crates and plastic pallets and in which the introduction of substances not stemming from the cycle is restricted to the minimum technically feasible, up to a maximum of 20 percent by weight.
  
- (2) Lead, cadmium, mercury and hexavalent chromium shall not be deliberately added during the manufacturing process or during distribution. The incidental presence of any of these substances shall remain unaffected hereby.
  
- (3) The limit value may be exceeded only as a result of the addition of recycled materials.
  
- (4) New plastic crates or pallets containing the regulated metals shall be identified in a permanent and visible way.

### **No. 4 System requirements and other management options**

- (1) A system of inventory and record keeping shall be established, including a method of regulatory and financial accountability, to document the compliance with the requirements of Nos. 3 and 4, including the return rates, that is, the percentage of returnable entities which are

not discarded after use but are returned to the manufacturer or packer / filler or an authorised representative and shall be as high as possible but in no case lower than 90 percent over the lifetime of the plastic crates or plastic pallets. The system shall account for all the reusable entities put into, and removed from, service.

(2) All returned plastic crates and plastic pallets that are no longer reusable shall either be consigned to a process of substance recycling with a view to producing new plastic crates and plastic pallets as specified in No. 3 or be disposed of in a manner that is commensurate with the public good.

#### **No. 5 Declaration of Conformity and Annual Report**

(1) The manufacturer or its authorised representative shall on an annual basis issue a written declaration of conformity stating that the plastic crates and plastic pallets manufactured in accordance with this Annex meet the requirements laid down in this Ordinance. It shall furthermore draw up an annual report to specify how the requirements of the Annex are complied with. The report shall in particular specify any changes to the system and any change with regard to the authorised representatives.

(2) The manufacturer or its authorised representative shall keep this documentation in their archives for at least four years and submit them to the competent authority on request.

(3) Where neither the manufacturer nor his authorised representative is established within the territorial scope of this Ordinance, the obligation to keep this documentation available shall be the responsibility of the person who puts the product into circulation within the territorial scope of this Ordinance.

## **Annex III**

(to section 13 subsection (3))

### **Specification of conditions under which glass packaging is exempted from the limit value for heavy metals laid down in section 13 subsection (1)**

#### **No. 1 Definition of Terms**

For the purposes of this specification, the definitions in No. 2 of Annex II to section 13 subsection (2) shall apply for the terms “intentional introduction” and “incidental presence”.

#### **No. 2 Manufacture**

(1) Lead, cadmium, mercury and hexavalent chromium shall not be deliberately added during the manufacturing process.

(2) The limit value laid down in section 13 subsection (1) may be exceeded only as a result of the addition of recycled materials.

#### **No. 3 Monitoring**

(1) Should the average concentration of heavy metals exceed the limit value of 200 mg/kg during monthly checks of the production of every individual glass furnace over a period of twelve consecutive months that are representative for normal and regular production, the manufacturer or its authorised representative shall submit a report to the competent authority. This report must contain at least the following information:

- measured values,
- description of the measuring methods used,
- suspected sources for the presence of heavy metal concentration limit values
- detailed description of measures taken to reduce the concentration limit values.

(2) Measuring results from production workshops and the measuring methods used shall be archived for at least three years and shall be submitted to the competent authority on request.

(3) Where neither the manufacturer nor its authorised representative is established within the territorial scope of this Ordinance, the obligations from subsections 1 and 2 shall be the responsibility of the person who puts the product into circulation within the territorial scope of this Ordinance.

**Annex IV**  
(to section 14)

**1. Numbers and Abbreviations for Plastics**

Substance	Abbreviation	Number
Polyethylene terephthalate	PET	1
Polyethylene (high density)	HDPE	2
Polyvinylchloride	PVC	3
Polyethylene (low density)	LDPE	4
Polypropylene	PP	5
Polystyrene	PS	6
		7
		8
		9
		10
		11
		12
		13
		14
		15
		16
		17
		18
		19

**2. Numbers and Abbreviations for Paper and Cardboard**

Substance	Abbreviation	Number
Corrugated cardboard	PAP	20
Other cardboard	PAP	21
Paper	PAP	22
		23
		24
		25
		26
		27
		28
		29
		30
		31
		32
		33
		34
		35
		36
		37
		38
		39



### 3. Numbers and Abbreviations for Metals

Substance	Abbreviation	Number
Steel Aluminium	FE	40
	ALU	41
		42
		43
		44
		45
		46
		47
		48
	49	

### 4. Numbers and Abbreviations for Wood Materials

Substance	Abbreviation	Number
Wood Cork	FOR	50
	FOR	51
		52
		53
		54
		55
		56
		57
		58
		59

### 5. Numbers and Abbreviations for Textiles

Substance	Abbreviation	Number
Cotton Jute	TEX	60
	TEX	61
		62
		63
		64
		65
		66
		67
		68
		69

## 6. Numbers and Abbreviations for Glass

Substance	Abbreviation	Number
Colourless glass	GL	70
Green glass	GL	71
Brown glass	GL	72
		73
		74
		75
		76
		77
		78
		79

## 7. Numbers and Abbreviations for Composite Materials

Substance	Abbreviation <sup>(*)</sup>	Number
Paper and cardboard / Miscellaneous metals		80
Paper and cardboard / Plastic		81
Paper and cardboard / Aluminium		82
Paper and cardboard / Tinplate		83
Paper and cardboard / Plastic / Aluminium		84
Paper and cardboard / Plastic / Aluminium / Tinplate		85
		86
		87
		88
		89
Plastic / Aluminium		90
Plastic / Tinplate		91
Plastic / Miscellaneous metals		92
		93
		94
Glass / Plastic		95
Glass / Aluminium		96
Glass / Tinplate		97
Glass / Miscellaneous metals		98
		99

(\*) For composites use C plus abbreviation for principal component (C/ ).

## **Annex V**

(to section 3 subsection (1) No. 1)

### **1. Criteria for the definition of “packaging” pursuant to section 3 subsection (1) No. 1**

(a) Items shall be considered to be packaging if they fulfil the definition mentioned in section 3 subsection (1) No. 1 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.

(b) 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.

(c) 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.

### **2. Illustrative examples for the criteria**

#### **Illustrative examples for criterion (a)**

Items that are considered as packaging:

- Sweet boxes
- Film overwrap around a CD case

Items that are not considered as 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 (b)**

Items that are considered as 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

Items that are not considered as packaging:

- Stirrer
- Disposable cutlery

### **Illustrative examples for criterion (c)**

Items that are considered as packaging:

- Labels hung directly on or attached to a product

Items that are not considered as 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 VI

- (to section 10 subsection (5))

### **1. Technical requirements for the deposition of data**

The deposition of data pursuant to section 10 subsections (5) and (6) with the Chambers of Industry and Commerce or the body established under section 32 subsection (2) of the Environmental Audit Act (*Umweltauditgesetz*) shall be carried out exclusively in electronic form in an internet-based data base established and run by the depository. The audit certificate pursuant to section 10 subsection (1) must carry a qualified digital signature pursuant to section 2 of the Digital Signature Act (*Signaturgesetz*).

### **2. Data to be submitted by the obligated companies**

Companies that deposit a declaration of compliance pursuant to section 10 subsection (5), first sentence, shall indicate the following data:

- a) full name of the company,
- b) address and contact details of the company (telephone, fax and e-mail),
- c) name and contact details of a responsible person,
- d) VAT identification number (if no such number exists, the reference number used for the VAT declaration).

Scheme operators depositing information on participation in their compliance schemes pursuant to section 10 subsection (6), first sentence, shall be obligated to register without delay with the competent body pursuant to section 10 subsection (5), sixth sentence, each time a pronouncement pursuant to section 6 subsection (3) is made for the first time in a *Land* and to submit the data enumerated in No. 2 (a)-(c).

### **3. Arrangements concerning the declaration of compliance**

The obligated company shall enter the data enumerated in No. 2 above in the database established by the Chambers of Industry and Commerce. The document generated by the database after entry of the data shall be confirmed by an authorised person pursuant to section 10 subsection (1).