

**Ordinance on the Avoidance and Recovery of Packaging Wastes
(Packaging Ordinance - *Verpackungsverordnung - VerpackV*¹)
of 21 August 1998
(Federal Law Gazette I p. 2379)
as last amended by Article 6 of the Act of 19 July 2007 (Federal Law Gazette I p. 1462 of
19 July 2007)**

(unofficial text)

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

Section I

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

**Article 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.

(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

¹The Packaging Ordinance transposes European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ EC No. L 365 p. 10), as last amended by the European Parliament and Council Directive 2004/12/EC of 11 February 2004 on packaging and packaging waste (OJ EU No. L 47 p. 26). The obligations in European Parliament and Council Directive 98/34/EC of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ EC No. L 204 p. 37), as last amended by European Parliament and Council Directive 98/48/EC of 20 July 1998 (OJ EC No. L 217 p. 18), have been complied with.

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 Articles 8 and 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 board. 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 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.

Article 2 **Scope of Application**

(1) The Ordinance shall apply to all packaging put into circulation within the area of validity 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.

Article 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 interests 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 Article 1 (1) of the Foodstuffs and Commodities Act

(*Lebensmittel- und Bedarfsgegenständegesetz*) 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 shall be 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)
- 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) *revoked*

(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 Article 4 (1) of the Chemicals Prohibition Ordinance (*Chemikalienverbotsverordnung*);
2. plant protectives within the meaning of Article 2 No. 9 of the Plant Protectives 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 area of validity 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 and members of the liberal professions, and farms and craft trade businesses with the exception of printing works and of other paper processing operations, 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.

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

Section II

Obligation to Accept Returned Packaging, Charge Deposits and Recover Packaging

Article 4

Obligation to Accept Returned Transport Packaging

(1) Manufacturers and distributors shall be obliged 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 is technically possible and economically reasonable (Article 5 (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.

Article 5 Obligation to Accept Returned Secondary Packaging

(1) Distributors providing goods in secondary packaging shall be obliged 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 accordingly.

(2) If the distributor does not remove the secondary packaging himself, he shall be obliged 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 obliged 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 obliged to consign secondary packaging to reuse or recycling. Article 4 (2) shall apply with the necessary modifications.

Article 6

Obligation to Accept Returned Sales Packaging

(1) The distributor shall be obliged 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. 2 of Annex I. The recovery requirements may also be met by reuse or transfer to distributors or manufacturers pursuant to paragraph 2. The distributor shall be obliged to draw attention to the return facility mentioned in the first sentence by means of clearly recognisable and legible notices. The obligation under the first sentence 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 m², the obligation to accept returned sales packaging shall be limited to the packaging of brands put into circulation by the distributor. In the mail-order trade, acceptance of returned packaging shall be ensured by means of suitable return facilities within reasonable distance of the final consumer. Attention shall be drawn to the return facility in the consignment of goods and in the catalogues. 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. If distributors do not meet the obligations pursuant to the first sentence by accepting returned packaging at the point of sale, they shall ensure compliance by means of a system pursuant to paragraph 3. Distributors who are unable to take part in a system pursuant to (3) shall notwithstanding the first sentence be subject to the recovery requirements of Article 4 (2) with the necessary modifications.

(2) Manufacturers and distributors shall be obliged to accept free of charge packaging returned by distributors pursuant to (1) 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. 2 of Annex I. The recovery requirements may also be met by means of reuse. The obligation under the first sentence shall be limited to packaging of such type, form and size and to packaging of such goods as are put into circulation by the individual manufacturers and distributors. (1) eighth to tenth sentences shall apply with the necessary modifications.

(3) The obligations pursuant to paragraphs (1) and (2) shall not apply to packaging in respect of which the manufacturer or distributor takes part in a system which, to an adequate extent, guarantees the regular collection of used sales packaging from or in the vicinity of the final

consumer throughout the catchment area of the distributor subject to paragraph (1) and which meets the requirements specified in Annex I to this Ordinance. A system (system operator, applicant) pursuant to the first sentence shall consign the packaging entering such system to recovery in accordance with the requirements of No. 1 of Annex I and shall meet the requirements pursuant to nos. 3 and 4 of Annex I. Evidence of participation in a system pursuant to the first sentence shall be furnished to the competent authority on request. The system pursuant to the first sentence shall be coordinated with existing collection and recovery systems run by the public authorities responsible for waste management in whose area it is set up. Such coordination shall take place in writing between the system operator and the public waste management authority. Such coordination shall be a prerequisite for the pronouncement pursuant to the eleventh sentence. Special attention shall be paid to the interests of the public waste management authorities. The public waste management authorities may demand the takeover or joint use, for a suitable fee, of facilities required for collecting and sorting materials of the type referred to in the Annex to this Ordinance. Such coordination shall not conflict with the awarding of contracts for waste management services on a competitive basis (Annex I No. 3 (3) No. 2). The system operator shall be obliged to bear a share of the costs incurred by the public waste management authorities as a result of giving waste management advice for his system and as a result of the creation, provision, maintenance and cleaning of areas for the siting of large collection containers. The highest Land authority responsible for waste management or the authority designated by it shall on application by the system operator pronounce that a system pursuant to the first sentence has been set up on a full-coverage basis. Such pronouncement may subsequently be made the subject of supplementary provisions 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 system. It shall be publicly announced and shall take effect upon such public announcement.

(4) The competent authority may revoke its decision pursuant to (3) sentence 11 if and as soon as it ascertains that the requirements specified in (3) first sentence are not being met. It shall likewise announce the revocation publicly. The revocation shall be limited to packaging made of certain materials if it is only for such packaging that the recovery quotas specified in Annex I to this Ordinance are not being met. Paragraphs (1) and (2) shall apply on the first day of the sixth calendar month following the public announcement of the revocation. The competent authority may furthermore revoke its decision pursuant to paragraph (3) eleventh sentence if and as soon as it

ascertains that the operation of the system has been discontinued. In this case paragraphs (1) and (2) shall apply two months after the announcement of the revocation.

(5) This provision shall apply to distributors of service packaging that is dispensed in artisanal food shops, with the proviso that No. 2 (1) of Annex I shall not apply. The provision shall not apply to sales packaging of pollutant-containing products. This shall be without prejudice to No. 4 (1) of Annex I.

Article 7

Obligation to Accept Returned Sales Packaging of Pollutant-Containing Products

(1) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obliged 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 return facility 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 Article 3 (7) No. 3 to recycling, insofar as is technically possible and economically reasonable.

(3) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obliged to comply accordingly with the requirements pursuant to number 2 para. 1 sentences 1 to 5 of Annex I. The documentation shall be submitted on request to the authority in whose area the manufacturers and distributors are based. Number 2 para. 1 sentences 11 and 12 of Annex I shall apply correspondingly.

Article 8

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 obliged to charge the purchaser a deposit of at least 25 euro cents including value-added tax per drinks pack. This first sentence shall not apply to packaging sold to final consumers outside of the area of validity of this Ordinance. The deposit shall be charged by each further distributor at each distribution level until delivery to the final consumer. The deposit shall be refunded on acceptance of the returned packaging in accordance with Article 6 (1) first and sixth sentence and Article 6 (2) first sentence. Deposits shall not be refunded without accepting returned packaging. For sales from drink vending machines, distributors shall provide a suitable system for accepting returned packaging and refunding deposits within a reasonable distance from the vending machines. * For packaging subject to a compulsory deposit under the first sentence, the obligation to take back packaging pursuant to Article 6 (1) first sentence shall, in place of Article 6 (1) fourth sentence, be limited to the material type (glass, metals, paper, cardboard and plastics, including all composite packaging containing these primary substances) of packaging put into circulation by the distributor. Article 6 (1) ninth and tenth sentences shall not apply to packaging listed in the first sentence. With regard to recovery under Annex 1 No. 1 (5) first sentence, returned packaging shall primarily be consigned to recycling.

(2) Paragraph 1 shall only apply to one-way drinks packaging which is not ecologically advantageous within the meaning of Article 3 (4) and 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,
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, dietetic drinks within the meaning of Article 1 (1) of the Ordinance on Dietetic Foodstuffs (*Diätverordnung*) with the exception of those used for intensive muscle-building (primarily for athletes) within the meaning of Annex 8 No. 7 to this Ordinance and mixes of such drinks shall not be soft drinks within the meaning of sentence 1.
4. * Mixed alcoholic drinks
 - produced using

* Article 8 (1) seventh sentence, Article 8 (2) first sentence No. 3, to the extent it relates to non-carbonated soft drinks, and Article 8 (2) first sentence No. 4 shall enter into force on 1 May 2006.

- products which are subject to spirits tax under Article 130 (1) of the Federal Spirits Monopoly Act (*Branntweinmonopolgesetz*) or
- fermentation alcohol made from beer, wine or wine-like products, including in processed form, which has been processed using technology which no longer meets the requirements for good manufacturing practice and containing less than 15 per cent alcohol or
- containing less than 50 per cent wine or wine-like products, including in processed form.

In all other cases, Paragraph 1 shall not apply where the manufacturer or distributor takes part in a system pursuant to Article 6 (3). Article 6 (4) shall apply accordingly.

Article 9

Obligation to Charge Deposits on Packaging of Detergents, Cleaners and Emulsion Paints

(1) Article 8 (1) shall apply as appropriate to packaging provided to private final consumers

1. For detergents and cleaners within the meaning of Article 2 (1) of the Detergents and Cleaners Act (*Wasch- und Reinigungsmittelgesetz*),
2. For emulsion paints with a net weight of 2 kg or over. In this case the deposit shall be 1.00 euro including value-added tax.

(2) Paragraph 1 shall not apply to packaging in respect of which the manufacturer or distributor takes part in a system pursuant to Article 6 (3). Article 6 (4) shall apply accordingly.

Article 10

Limitation of the Obligation to Refund Deposits

Distributors who put packaging into circulation which is subject to a deposit charge under Article 8 (1) or Article 9 (1) may refuse to refund deposits for packaging which is exempt from the deposit charge under Article 8 (2) or Article 9 (2) in conjunction with Article 6 (3).

Article 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 III

Manufacture, Putting into Circulation and Labelling of Packaging

Article 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.

Article 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 ppm.

(2) Paragraph (1) 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) Paragraph (1) shall not apply to packaging made from miscellaneous glass that complies with the conditions of Annex III.

Article 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.

Section IV
Administrative Offences, Transitional and Concluding Provisions

Article 15
Administrative Offences

An administrative offence within the meaning of Article 61 (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 Article 4 (1) first sentence or (2) first sentence, including in conjunction with Article 6 (1) tenth sentence, the latter also in conjunction with Article 6 (2) fourth sentence, does not accept returned packaging after use or does not consign it to reuse or recycling,
2. in contravention of Article 5 (1) first sentence does not remove secondary packaging and does not give the final consumer an opportunity to remove or return secondary packaging,
3. in contravention of Article 5 (2) or Article 6 (1) third or seventh sentence fails to provide information or to provide it properly or completely,
4. in contravention of Article 5 (3) first sentence fails to provide collection containers or to provide them in the prescribed manner,
5. in contravention of Article 5 (3) third sentence does not consign secondary packaging to reuse or recycling,
6. in contravention of Article 6 (1) first sentence or (2) first sentence fails to accept returned sales packaging or to consign it to recovery in accordance with the requirements of Annex I No. 1,

7. in contravention of Article 6 (1) first sentence or (2) first sentence, in each case in conjunction with No. 2 (1) fifth or sixth sentence of Annex I, No. 2 (1) fifth sentence also in conjunction with No. 2 (2) of Annex I, fails to submit a documentation or plan or to do so in time, or fails to confirm a documentation by means of an inspection report or to do so in time,
8. in contravention of Article 6 (1) sixth or ninth sentence, including in conjunction with (2) fourth sentence, fails to guarantee or ensure acceptance of returned packaging,
9. in contravention of Article 6 (3) second sentence fails to consign packaging to recovery in accordance with the requirements of Annex I No. 1,
10. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (1) or (2) of Annex I does not ensure collection from the private final consumer by means of suitable collection systems or does not ensure collection at typical waste occurrence sites in the leisure sector,
11. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (3) No. 3 of Annex I does not disclose the cost of collection, sorting and recovery or disposal for the individual packaging materials,
12. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (4) of Annex I fails to furnish evidence or to furnish it time or in the required manner,
13. in contravention of Article 6 (3) second sentence in conjunction with No. 4 (3) of Annex I fails to furnish the application authority with the relevant evidence or to do so in time or in the proper manner,
14. in contravention of Article 6 (3) third sentence fails to furnish evidence or to do so properly, completely or in time,
15. in contravention of Article 7 (1) first sentence does not ensure that packaging can be returned,

16. in contravention of Article 7 (1) second sentence fails to provide information or to do so properly or completely,
17. in contravention of Article 7 (2) does not consign returned packaging to reuse or recycling,
18. in contravention of Article 8 (1) first, third or fourth sentence, each also in conjunction with Article 9 (1), fails to charge or return a deposit,
19. in contravention of Article 8 (1) fifth sentence refunds a deposit without accepting returned packaging,
20. in contravention of Article 13 (1) puts packaging or packaging components into circulation or
21. in contravention of Article 14 second sentence uses other numbers or abbreviations.

Article 16
Transitional Provisions

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

(2) Until 31 December 2012, Article 6 shall not apply to plastic packaging and its components if it is made from biodegradable substances which are deemed compostable according to producer-independent certification conducted using recognised standards. Producers and distributors shall ensure that the highest possible share of packaging is recovered.

Article 17 (Entry into Force)¹

¹ The Ordinance in its original version entered into force on 27 August 1998. Article 8 (1), seventh sentence, Article 8 (2), first sentence, No. 3, to the extent it relates to non-carbonated soft drinks, and Article 8 (2), first sentence, no. 4 shall enter into force on 1 May 2006.

Annex I
(to Article 6)

1. Requirements for Recovery of Sales Packaging

(1) Manufacturers and distributors who are obliged to accept returned packaging pursuant to Article 6 (1) and (2) shall with regard to the packaging put into circulation by them during the calendar year meet the recovery requirements set out in paragraphs (2) to (5). Applicants pursuant to Article 6 (3) shall with regard to the packaging in respect of which manufacturers or distributors participate in their system meet the recovery requirements set out in paragraphs (2), (4) and (5).

(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 shall be permissible. For composites which are collected from a stream of the above-mentioned principal materials and consigned to recovery, the quota pursuant to the first sentence 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 otherwise they are 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 substance (materials-oriented processes).

(3) *revoked*

(4) Packaging made from materials for which no definite recovery quotas are specified shall be consigned to recycling where 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.

(5) Notwithstanding (2), the quantity of packaging actually collected shall be consigned to recovery insofar as this is technically possible and economically reasonable. Otherwise it shall be disposed of in accordance with the principles of waste disposal commensurate with the public good pursuant to Articles 10 and 11 of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*); insofar as it is not disposed of in own installations or if overriding public interests so require, it shall be transferred to the public waste management authorities.

2. General Requirements for Parties subject to Obligations pursuant to Article 6 (1) and (2)

(1) Manufacturers and distributors obliged to accept returned packaging pursuant to Article 6 (1) and (2) shall furnish evidence of compliance with the acceptance and recovery requirements. To this end they shall by 1 May every year document in verifiable form the sales packaging put into circulation and returned and recovered in the preceding calendar year. Such documentation shall be drawn up in terms of weight, broken down by individual packaging materials. Reusable packaging shall not be included in the documentation. Cooperation between several manufacturers and distributors shall be permissible. Compliance with the acceptance and recovery requirements shall be certified by an independent expert in accordance with (2) on the basis of the documentation. Each of these manufacturers and distributors has to ensure the compliance with the acceptance and recovery requirements pursuant to Article 6 (1) and (2) 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. The certificate shall be deposited by the obliged manufacturers and distributors with the body set up pursuant to Article 32 (2) of the Eco-Audit Act (*Umweltauditgesetz*). The certificate shall be submitted by the body referred to in sentence 7 to the highest Land authority responsible for waste management or to the authority it specifies. The accompanying documentation pursuant to sentences 2 and 3 shall be submitted to the competent authority on request. In the case of a cooperation between several manufacturers and distributors pursuant to sentence 6, the certificate shall identify all cooperating manufacturers and distributors with names and headquarters. Distributors with a sales area of less than 200 m² who are obliged to accept returned packaging pursuant to Article 6 (1) 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.

(2) An independent expert within the meaning of (1) 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 Article 9 or an environmental verifier organisation pursuant to Article 10 of the Eco-Audit Act (*Umweltauditgesetz*) or
3. a person publicly appointed pursuant to Article 36 of the Trade Code (*Gewerbeordnung*).

3. General Requirements for Systems pursuant to Article 6 (3)

(1) It shall be ensured by means of systems pursuant to Article 6 (3) that packaging is collected from private final consumers (“fetch systems”) or collected from the vicinity of private final consumers by means of suitable collection systems (“bring 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 system. Collection shall be confined to private final consumers.

(2) It shall furthermore be ensured by means of systems pursuant to Article 6 (3) that collection of packaging also takes place from typical waste occurrence sites in the leisure sector. Typical waste occurrence sites shall include in particular holiday complexes, leisure parks, sports stadiums, service areas and comparable facilities.

(3) The applicant shall ensure that

1. recovery capacity actually exists for the packaging entering the system,
2. waste management services (collection, sorting, recovery) are offered for tender in a procedure that ensures the award of contracts on a competitive basis,
3. the costs of collection, sorting and recovery or disposal of the individual packaging materials are disclosed,
4. the packaging intended for recovery is transferred under competitive conditions,
5. the evidence of participation in the relevant system required pursuant to Number 4 of this Annex is submitted,
6. the materials recovery requirements set out in Number 1 of this Annex are shown to be met and
7. in the event that operation of the system is discontinued, waste management of the packaging actually collected by the system’s collection facilities is guaranteed.

(4) The applicant shall furnish in verifiable form evidence of the quantities collected and the quantities consigned to recycling and to energy recovery. This shall show in verifiable form 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 system as shown by the applicant, broken down by packaging materials. Compliance with the acceptance and recovery requirements shall be certified by an independent expert in accordance with Annex I No. 2 (2) on

the basis of the documentation. The certificate shall be deposited by the obliged manufacturers and distributors with the body set up pursuant to Article 32 (2) of the Eco-Audit Act (*Umweltauditgesetz*). The certificate shall be submitted by this body to the highest Land authority responsible for waste management or to the authority it specifies. The accompanying documentation pursuant to the first sentence shall be submitted to the competent authority on request.

(5) The system operator may charge manufacturers and distributors who do not take part in this system for the cost of sorting, recovering or disposing of the packaging that is put into circulation by the latter and undergoes waste management by the system.

4. Participation in Systems pursuant to Article 6 (3)

(1) As a basic principle, packaging of products within the meaning of Article 7 may not be fed into systems pursuant to Article 6 (3). The applicant may include such packaging in his system if manufacturers or distributors present *prima facie* evidence of its compatibility with the system in the form of an expert opinion by an independent expert, having regard to normal consumer behaviour.

(2) The system operator shall furnish the participating manufacturers and distributors with confirmation of their participation in the system. Manufacturers and distributors shall indicate their participation by marking the packaging or by other suitable means.

(3) The applicant shall by 1 May every year furnish the application authority with evidence of the extent to which manufacturers or distributors have fed sales packaging into his system during the preceding year within the area of application of this Ordinance. Such evidence, broken down by packaging materials, shall be certified by an auditor. All packaging in respect of which the manufacturers or distributors take part in the system shall be deemed to have been fed into the system.

(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 system 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 system. The application authority may in individual cases prohibit the inclusion of the packaging if no *prima facie* evidence of its compatibility with the system is produced.

Annex II
(to Article 13 para. 2)

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

No. 1 Scope of Application

The limit values laid down for heavy metals in Article 13 (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 concentration limits 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 area of validity of this Ordinance, the obligation to keep this documentation available is the responsibility of the person who places the product on the market within the area of validity of this Ordinance.

Annex III

(to Article 13 para. 3)

Specification of conditions under which glass packaging is exempted from the limit values for heavy metals laid down in Article 13 (1)

No. 1 Definition of Terms

For the purposes of this specification, the definitions in No. 2 of Annex II to Article 13 para. 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 concentration limits 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 ppm 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 area of validity of this Ordinance, the obligations from paras. 1 and 2 shall be transferred to the person who places the product on the market within the area of validity of the Ordinance.

Annex IV (to Article 14)

1. Numbers and Abbreviations⁽¹⁾ 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

⁽¹⁾ Use capital letters only.

2. Numbers and Abbreviations⁽¹⁾ 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

⁽¹⁾ Use capital letters only.

...

3. Numbers and Abbreviations for Metals

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

4. Numbers and Abbreviations⁽¹⁾ for Wood Materials

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

⁽¹⁾ Use capital letters only.

5. Numbers and Abbreviations⁽¹⁾ for Textiles

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

⁽¹⁾ Use capital letters only.

6. Numbers and Abbreviations⁽¹⁾ for Glass

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

⁽¹⁾ Use capital letters only.

7. Numbers and Abbreviations⁽¹⁾ for Composite Materials

Substance	Abbreviation ^(*)	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/).

⁽¹⁾ Use capital letters only.

Annex V
(to Article 3 (1) No.1)

1. Criteria for the definition of “packaging” pursuant to Article 3 (1) No. 1

(a) Items shall be considered to be packaging if they fulfil the definition mentioned in Article 3 (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.