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Ministry of the Environment, Finland

No. 962
GOVERNMENT DECISION
ON PACKAGING AND
PACKAGING WASTE

October 23, 1997

Section 1

Purpose

The purpose of this Decision is to reduce the environmental harm caused by packaging and packaging waste, and to prevent barriers to trade and distortion and restriction of competition.

The primary aim is to prevent the generation of packaging waste; the other aims are to reuse packaging, and to recycle and otherwise recover packaging wastes in order to reduce their final disposal.

Section 2

Scope of application

This Decision applies to packaging placed on the Finnish market and consumed here, and to the packaging waste it generates, in addition to what is provided elsewhere concerning it.

Neither the obligations concerning recovery of packaging waste and the relevant cost responsibility referred to in section 5 of this Decision nor the obligations referred to in sections 6 and 11, section 16(1) and section 17(1) and (2) apply to packers or other economic operators with a net operational turnover of less than [5 million Finnish marks]* during the year. (30.11.2000/1025)

* 841 000 euros

Section 3

Definitions

For the purposes of this Decision:

- 1) *packaging* shall mean a product consisting of any material, intended for storing and protecting goods, to allow their handling and transportation from manufacturer to consumer or user, and to facilitate their display; non-returnable products used for the same purpose are also considered packaging; however, only the packaging referred to in paragraph 2 below is considered packaging;
 - 2) *packaging waste* shall mean a packaging or packaging material which the holder discards, or intends or is required to discard, with the exclusion of production residue;
 - 3) *packer* shall mean the commercial packer of a product or the importer of a packed product;
 - 4) *packaging waste management* shall mean the collection, transport, recovery and disposal of packaging waste;
 - 5) *prevention* shall mean reducing the volume of, and environmental harm from, packaging and packaging waste throughout the life-cycle of the packaging, especially by developing environmentally clean products and techniques;
 - 6) *reuse* shall mean all operations whereby a packaging designed and made for a certain minimum number of repeated uses is refilled or reused for a purpose similar to its original purpose, irrespective of whether auxiliary products available on the market and intended for refilling the packaging are used; such a packaging becomes packaging waste when it is no longer filled or reused;
 - 7) *recovery* shall mean the operations referred to in Annex 5 of the Waste Decree (1390/1993), aimed at leading to the separation and further use of the material or energy in the packaging waste;
 - 8) *recycling* shall mean the reprocessing of waste in a production process or its use as raw material for its original or some other purpose, including organic recycling but excluding energy recovery;
 - 9) *organic recycling* shall mean aerobic or anaerobic treatment of the biodegradable components of packaging waste, using micro-organisms in a controlled environment, producing stabilized organic materials or methane. Landfill shall not be considered a form of organic recycling;
 - 10) *energy recovery* shall mean the direct incineration of combustible waste, with or without other waste but with recovery of the heat;
 - 11) *disposal* shall mean the operations referred to in Annex 6 of the Waste Decree aimed at rendering the waste harmless or permanently depositing it;
 - 12) *economic operator* shall mean packers and suppliers of packaging material, packaging producers, converters, fillers and users, importers, traders and distributors; and
 - 13) *producer corporations* shall mean legally competent corporations set up by economic operators for the purpose of implementing this Decision with regard to one or more packaging materials or types.
- Packaging shall comprise only:

- 1) sales packaging or primary packaging intended for the containment of a unit sold to the final user or consumer at the point of sale;
- 2) grouped packaging or secondary packaging intended for the containment at the point of sale of a group comprising a certain number of sales units irrespective of whether the group is sold as such to the final user or consumer or whether it is used only at the point of sale; the packaging can be removed from the product without affecting the product's properties;
- 3) transport packaging or tertiary packaging intended to facilitate handling and transport of a certain number of sales units or grouped packaging so that physical handling and transport damage can be avoided. Transport packaging does not include road, rail, ship or air containers.

Section 4

Minimum targets

The aim of this Decision is that by June 30, 2001:

- 1) at least 6 per cent less packaging waste than in 1995 is generated per year relative to the volume of packed products consumed in Finland;
- 2) at least a total of 82 per cent by weight of all used packaging is reused, and of all packaging waste is recycled or otherwise recovered, per year;
- 3) at least 61 per cent by weight of all packaging waste is recovered per year, so that at least 42 per cent of the total packaging waste and at least 15 per cent by weight of each waste material is recycled;
- 4) 75 per cent of fibre-packaging waste is recovered and 53 per cent recycled, and 48 per cent of glass-packaging waste and 25 per cent of metal-packaging waste is recycled, and 45 per cent of plastic-packaging waste is recovered.

Section 5

Packers' and other economic operators' duties

Packers shall prevent the generation of packaging waste and see to the reuse of packaging and recovery of packaging waste and carry the costs thereof in proportion to the volume and type of packaging they place on the market, so that the minimum targets laid down in section 4 are attained and that the other duties of packers laid down in this Decision are fulfilled.

Economic operators other than packers must act in such a way that packers can fulfil their duties as referred to in paragraph 1.

Section 6

The duties of economic operators to cooperate in waste management

By setting up and maintaining producer organizations or by otherwise cooperating, economic operators must see to the fulfilment of their duties concerning waste management as laid down in section 5.

Section 7

The duties of municipalities and those transporting waste

Municipalities and, in a contractual waste transport scheme, the transporter of packaging waste shall manage waste in their possession in such a way that the minimum targets of packaging-waste recovery laid down in section 4 are met and the other duties laid down in this Decision are fulfilled.

Section 8

Delivering packaging for reuse

Consumers and the final users of packaging are entitled to assign a packaging, cleaned and sorted according to the packer's instructions, to the packer for reuse.

Section 9

Delivering packaging waste for recovery

Under waste transport scheme, the producer of the packaging waste shall sort the waste and deliver it to a collection point on the relevant property or elsewhere if so prescribed in the municipal waste management regulations.

When a waste transport scheme does not exist, the holder of packaging waste can deliver the recoverable waste to the packer for recovery as agreed. Where a contractual waste transport scheme exists, the waste transporter and, where waste transport is organized by the local authority, the municipality as holders of the waste have the same right.

Section 10

Direct delivery of packaging waste for recovery

A packaging waste producer who has subscribed to the waste transport scheme can deliver recoverable waste, cleaned and sorted according to the packer's instructions, directly to a collection point at the relevant packed product's point of sale or at a point of collection agreed upon by the packer and the municipality, to be recovered by the packer.

Section 11

Waste management cooperation between packers, local authorities and transporters

The packer and the local authority or, in a contractual waste transport scheme, the transporter shall cooperate in organizing recovery of packaging waste and other related waste management in the municipality.

Section 12

Transfer of the duty to organize waste management

When packaging waste is delivered to a packer for recovery in compliance with this Decision, the duty to organize waste management referred to in chapter 3 of the Waste Act is transferred to the packer with regard to the waste concerned.

Section 13

Marking of packaging materials

Where the material of packaging is indicated by a marking, it is recommended that the identification system laid down in Commission Decision 97/129/EC on establishing the identification system for packaging materials pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste be used primarily. Markings should be made on either the packaging itself or on its label. The marking must be clearly visible and easily legible, also after the packaging has been opened.

Section 14

Essential requirements of a packaging

Packers must see to it that packaging meets the essential requirements laid down in the Annex to this Decision concerning composition, reusability and recoverability.

When packaging complies with a harmonized standard whose reference number has been published in the Official Journal of the European Communities, or with some other standard published in compliance with European Parliament and Council Directive 94/62/EC on packaging and packaging waste, and whose reference number has been published in the said Official Journal, the packaging is considered to meet the requirements referred to in paragraph 1.

Section 15

Heavy metal concentration in packaging

Packers must see to it that the total concentrations of lead, cadmium, mercury and hexavalent chromium in packaging or its components do not exceed 600 ppm by weight as of July 1, 1998, 250 ppm by weight as of July 1, 1999, and 100 ppm by weight as of July 1, 2001.

The limits referred to above in paragraph 1 do not apply to packaging made entirely of lead crystal glass as defined in Council Directive 69/493/EEC on the approximation of the laws of the Member States relating to crystal glass.

Section 16

Provision of monitoring data

Packers must annually, by the end of September, provide the Finnish Environment Institute with data on the preceding year as laid down regarding the establishment of formats in the database system in Commission Decision 97/138/EC pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste, unless the data has been submitted to a corporation referred to in section 18(2), whose duty it is to pass the data on to the Finnish Environment Institute. (30.11.2000/1025)

In a municipal or a contractual waste transport scheme, a transporter which has recovered more than 100 tonnes of waste during the preceding year must similarly inform the Finnish Environment Institute of the quantity and quality of packaging waste it recovered. (30.11.2000/1025)

The Finnish Environment Institute compiles the monitoring data it receives and delivers them to the Commission within 18 months of the end of the calendar year which the data concern. When the report referred to in section 19 is submitted, the monitoring data shall be submitted at the same time.

Section 17

Publicity and advice

Packers, traders, municipalities and, in a contractual waste transport scheme, transporters shall on their own part and, when necessary, in cooperation with each other provide the publicity and advice required for implementation of this Decision and attainment of its aims, and organize a special publicity campaign aimed at the general public and economic operators.

In publicity and the provision of advice it shall be ensured that all users of packaging, and especially consumers, receive all the necessary information, comprising the following:

- 1) information on the available return, collection and recovery systems;
- 2) information on the rights and obligations pertaining to the reuse of packaging and the recovery and recycling of packaging waste; and
- 3) information on the markings used in packaging.

The Finnish Environment Institute and the regional environment centres shall publicize the section concerning packaging and packaging waste in the waste plan referred to in section 40 of the Waste Act, and participate in the publicity campaign referred to in paragraph 1.

Section 18

Transfer of duties and functions

Packers and other economic operators can agree with a producer corporation entered, in compliance with section 49 of the Waste Act, in the waste data register referred to in section 70 of the said Act that the said corporation will take charge of the duties concerning the organization of waste management which this Decision confers on the packer or other economic operator. In such a case, the relevant producer organization shall be in charge of said duties as of the date on which the Finnish Environment Institute receives the corporation's notice of the agreement.

Producer corporations can assign the functions referred to in sections 16 and 17, conferred on them by packers or traders under agreement, to a company they have founded or to some other legally competent corporation.

Section 19

Drawing up a report

Every third year the Finnish Environment Institute shall draw up a report on the implementation of this Decision in Finland in compliance with article 5 of Council Directive 91/692/EEC on the standardization and rationalization of reports related to the implementation of certain environmental directives. The first report shall cover the years 1995-1997.

Section 20

Waste plan

The waste plan referred to in section 40 of the Waste Act shall include a section concerning packaging and packaging waste, explaining how the aims of this Decision will be attained.

Section 21

The authority of the Ministry of the Environment

The Ministry of the Environment can issue more detailed provisions and instructions on the implementation of sections 4-19 and decide on derogations to these sections in individual cases, provided that the derogations comply with an international obligation binding on Finland.

Section 22

Coercive measures and sanctions

The coercive measures and sanctions resulting from non-observance of the duties laid down in this Decision are prescribed in chapter 10 of the Waste Act.

Section 23

Entry into force and transitional provisions

This Decision comes into force on December 1, 1997.

The obligations laid down in section 14 of this Decision must be met by December 31, 1997. The obligations laid down in sections 14 and 15 of this Decision do not apply to packaging for a given product before December 31, 1994, or to packaging manufactured before December 31, 1994, and placed on the market before December 31, 1999. The duty laid down in section 16 of this Decision concerning the provision of monitoring data applies for the first time to 1997. The publicity campaign referred to in section 17 must be implemented by June 30, 1998.

Measures needed to enforce this Decision can be taken before it comes into effect.

Annex

ESSENTIAL REQUIREMENTS CONCERNING THE COMPOSITION AND REUSABILITY AND RECOVERABILITY OF PACKAGING

1) Requirements concerning the manufacture and composition of packaging

Packaging shall be manufactured so as to be as small and as light as possible. It shall, however, be manufactured so that the required standards of safety, hygiene and acceptability are protected, both concerning the packed product and the consumer.

Packaging shall be designed, manufactured and sold in such a way that it can be reused or recovered, including recycling, and that its environmental impact is as insignificant as possible when packaging waste or residues from the management of packaging waste are finally disposed of.

When packaging is manufactured, it shall be ensured that the concentrations of harmful substances and materials and of other dangerous substances in the packaging materials and components are as low as possible, so that placing residues from the management of packaging waste or from packaging in landfills or incinerating them is not harmful to the environment.

2) Requirements concerning the reusability of packaging

Packaging shall at the same time fulfil the following requirements:

- the physical properties of a packaging shall be such that it withstands numerous trips and rotations in normal conditions;
- it shall be possible to handle used packaging in compliance with labour health and safety requirements; and
- when a packaging is no longer reused and it becomes waste, the requirements of recoverability shall be observed.

3) Requirements concerning the recoverability of packaging

a) *Recyclable packaging*

Packaging shall be manufactured in such a way that a certain percentage by weight of the materials used can be recycled and used as raw material in the manufacture of goods to be placed on the market in compliance with current standards in the European Community. This percentage can vary, depending on the type of material used to manufacture the packaging.

b) *Packaging suitable for energy recovery*

Packaging waste delivered for use as an energy source shall have a certain minimum inferior calorific value for optimal energy recovery.

c) *Packaging suitable for composting*

Packaging materials delivered for composting shall be biodegradable enough to have no harmful effect on the separate collection of compost waste, the composting process or the activity in which the compost is used.

d) *Biodegradable packaging*

Biodegradable packaging waste shall decompose physically, chemically, thermally or biologically so that most of the generated compost ultimately decomposes into carbon dioxide, biomass and water.

The Decree amending Government Decision 962/1997 (1025/2000) came into force on 1 January 2001.

European Parliament and Council Directive 94/62/EC, Commission Decisions 97/129/EC and 97/138/EC; notified in accordance with Council Directive 83/189/EEC, as amended by 88/182/EEC and 94/10/EC