

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 187 final

Brussels, 22 April 1981

Proposal for a
COUNCIL DIRECTIVE
on containers of liquids for human consumption

(submitted to the Council by the Commission)

COM(81) 187 final

EXPLANATORY MEMORANDUM1. GENERAL

1. The attached proposal for a Directive on containers of liquids for human consumption is presented in the context of the Community's work on the rational control of solid waste, control which is necessary both from the economic point of view as well as the environmental protection aspect. The purpose of the proposed Directive is to reduce the environmental impact of used containers, and to reduce the consumption of energy and raw materials in this field. Its aim is to reduce the amount of containers of liquids for human consumption in household waste and to encourage a better recovery thereof.
2. It is quite clear from all the evidence that an operation of this kind must be carried out in an harmonised way throughout the Community. Individual operations carried out in a random way by the Member States can only lead to unfavourable consequences on the free movement of goods.
3. The proposal requires Member States, in respect of their own situation, to fix objectives for the purpose of reducing the amount of waste, to progressively attain these objectives, to use a number of means to achieve this end, and to inform the Commission of the objectives adopted, the means used and the results obtained.
4. The choice of means to be used to attain the goal which is fixed is left to the Member States. They may opt for voluntary agreements or for legislation. They may encourage the recycling of used containers and/or their refilling for further use. It is therefore more a question of defining a context within which Member States are to act than of laying down specific and detailed provisions.

With the assistance of the Waste Management Committee, the Commission will, on the basis of data and statistics supplied by the Member States, assess the progress made and, where appropriate, consider any additional measures to be envisaged.

5. As new containers may raise certain problems as regards refilling or recycling, Member States are called upon to take steps to ensure that new containers brought on to the market comply with the objectives of the Directive.
6. A certain amount of standardization of containers of liquids for human consumption may also help to achieve the objectives of the Directive while making the distribution of the products in question easier. Efforts should also be made in this direction.
7. In view of the possible impact resulting from the measures to be taken by the Member States on the proper functioning of the common market the Commission takes the view that the Agreement of the Representatives of the Governments of the Member States meeting in Council of 5 March 1973 (1) on information for the Commission and for the Member States with a view to possible harmonization throughout the Communities of urgent measures concerning the protection of the environment should be applied in all cases, in particular, so as to ensure that Community measures can be introduced where appropriate.
8. Measures introduced by the Member States should not in any circumstances be at variance with the provisions of the Treaty, and in particular those concerning the free movement of goods.

(1) OJ N° C 9, 15.3.1973, p. 1

9. The studies carried out by the Commission concerned beverage containers proper, with a view to preparing more specific and more binding common rules, e.g. the banning of certain types of closures for metal cans or the developing of a compulsory deposit system for beverage containers. However, with a view to reducing the amount of waste arising from containers and to conserve resources, it would appear to be more worthwhile and more advisable to include all liquids for human consumption within the scope of the Directive and to adopt a more consistent and more flexible approach (see 3 and 4 above).
10. Meetings were held, prior to the drafting of the Directive, with various branches of industry and trade and with the Consumers Consultative Committee.

II. THE PROBLEM

1. The present situation in the Member States can be summarized as follows (1):
 - increasing generation and diversity of urban waste and litter (90 million tonnes in 1979);
 - significant and growing volume of containers in general (about 30% - 50% by weight of the total amount of waste collected by local authorities) and beverage containers in particular (10% - 12% by weight of total household waste);
 - steady increase in disposal costs borne by local authorities (27 to 43 EUA per tonne);
 - consumption of natural resources which is likely to become increasingly costly owing to difficulties concerning the supply of energy and raw materials.

2. The production and use of beverage containers generate considerable "external" costs for the consumer in particular and society in general, e.g. :
 - the cost of disposing of used containers thrown away with domestic refuse (222 million EUA) (2);
 - the cost of clearing up containers thrown away as litter (52 million EUA) (3);

(1) the following information constitutes updated data from the report on the impact of various strategies for beverage containers (EUR 6712, 1980)

(2) Volume of used containers thrown away - 6.5×10^6 tonnes; cost of collection and disposal - 34 EUA per tonne

(3) some estimates put the volume of litter as 10% of the volume of containers thrown away by households, and a figure about four times as high for the cost of collection and disposal

- the cost of air and water pollution (342 million EUA) (1).

The "private" or "internal" costs of raw materials, energy, labour, etc. are reflected in the price of containers, but external costs are not, and are therefore borne by society.

3. The aim of the Commission's preparatory work has been to establish ways of deriving significant external benefits for all Member States in terms of :

- a reduction of the cost of disposing of urban wastes;
- raw materials and energy savings;
- greater protection for the environment.

(1) This estimate is obtained by assuming that the cost of pollution is not less than 1% of the GNP and that containers account for somewhat less than 1% of this pollution (a figure of 0.7% has been selected).

III. LEGISLATIVE ASPECTS

1. It is generally agreed in all Member States that there is room for improvement in the production and use of beverage containers.
2. In the Federal Republic of Germany, general measures enable the production of certain types of containers to be limited. For beer there are voluntary agreements between brewers concerning the use of returnable glass bottles. However, it is permitted to sell beer in cans or non-returnable glass bottles. The authorities have also encouraged a stepping up of the separate collection of (non-returnable and returnable) bottles and the recycling of glass.
3. In the Netherlands, manufacturers have concluded agreements relating to deposit charges on containers for beer and soft drinks. The public authorities encourage the recycling of materials and the creation of bottle banks.
4. In France, the tendency has been towards voluntary agreements between the public authorities and the industries most involved. Financial incentives (e.g. a tax designed to internalize costs) will be provided only if the agreements between the public authorities and the packaging industry fail to produce the desired results. The recycling of glass and plastic is also encouraged.

The contract signed on 17 December 1979 by the public authorities (represented by the Minister for the Environment and the Quality of Life and the Minister of Industry) and by the packaging industry lays down specific objectives for 1980-1984 (12% reduction in energy consumed per hectolitre bottled and 40% reduction by weight in the proportion of containers of liquids for human consumption in household waste) and points the way to specific measures to be taken (technological innovation, recycling of glass and plastic, re-use of 200 million bottles).

The agreement also provides for a progressive ban on non-returnable containers in cafés, hotels, restaurants and public establishments. Consumers will be left the choice between non-returnable and returnable containers in all other cases.

5. In Denmark, an outline law empowers the competent authorities to restrict or prohibit the marketing of certain types of containers and to introduce an obligatory deposit charge on certain drinks. The sale of soft drinks in non-returnable containers (cans and bottles) has been prohibited since 1977. The conclusion of a voluntary agreement between brewers and importers was encouraged by the Ministry of the Environment in order to phase out the sale of beer in metal cans. Under this agreement, beer will no longer be marketed in cans after 1981.

Since 1978, a tax, varying according to the container's capacity and its constituent packaging materials, has been applied to all liquids for human consumption (including milk and milk products).

The Commission was informed by the Danish Government on 10 January 1980 that a draft regulation would shortly make the marketing of beer, soft drinks and mineral water, in standardized returnable containers, compulsory in Denmark.

In accordance with Article 2 of the Agreement of the Representatives of the Governments of the Member States meeting in Council of 5 March 1973 on information for the Commission and for the Member States with a view to possible harmonization throughout the Community of urgent measures concerning the protection of the environment (1), the Commission informed the Danish Government that it intended to present to the Council proposals for Community measures relating to beverage containers.

The Danish Government has postponed adoption of the draft regulation in question for the time being.

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(1) OJ N° C 9, 15.3.1973, p. 1

6. In Luxembourg, the promotion of voluntary agreements to restrict non-returnable containers is being considered. Framework measures give the competent authorities the power to restrict, or even prohibit, certain types of containers.

In all of the Member States, the preferred course seems to be to encourage the recycling of materials (possibly through subsidies from public funds or the introduction of bottle banks).

Voluntary standardization seems to be advocated by the public authorities and industry in several Member States.

IV. GENERAL REMARKS ON THE SPECIFIC PROVISIONS OF THE PROPOSAL

- Article 1 sets out the objectives of the Directive.
- Article 2 contains definitions of the terms used. In conjunction with Annex I the term "liquids for human consumption" and "containers" define the scope of the Directive.
- Article 3 establishes a specific obligation on Member States. They are to fix in a reasonably precise way - for each category of material and for each year - estimates relating to the increase in the amount of recycled and/or refilled containers and to the reduction in the tonnage and/or volume of containers in household waste.

The Commission leaves it to the individual Member States to fix for themselves the rate at which they intend to proceed but will, with the assistance of the Waste Management Committee (1), keep a very close watch on the progress made over the years and will draw the appropriate conclusions.

- Articles 4 to 7 : the practical means whereby the Member States are to attain the objectives that have been set (Article 3) are contained in Article 4.

The means are listed in a), b), c) and d). They include :

- a) the recycling of used containers which will entail the adoption of the measures set out in article 5 and shall seek to :
 - promote the selective collection of containers;
 - develop effective processes for the sorting and treatment of household waste;
 - promote of the widest possible range of outlets for material recovered from used containers.

Other supplementary measures can be introduced in the interests of recovering used containers.

Health factors must be taken into account where the recovery of used containers is concerned. For example, vinegar and oil containers (items 5 and 6 in Annex I) may be recycled but do not lend themselves to being refilled;

- b) the promotion of technological innovation, put in concrete form by measures to reduce the weight of containers and save energy (Article 6). Member States may introduce additional measures in the interest of promoting technological innovation;
- c) changes in the choice of containers and their methods of distribution; the measures which Member States decide to introduce in this connection may, for example, seek to increase the proportion of refillable containers (Article 7). Article 7 is flexible in that it does not require the Member States to adopt specific measures but leaves open the possibility of their adopting measures different from those suggested in the text. On the other hand, where Member States decide to introduce a deposit system, or if such a system is already in existence it must contain two elements :
- returnable containers must bear the symbol "R"
 - the consumer must be clearly informed of the amount of the deposit (article 7 a) and b));
- d) consumer education is not made the subject of a specific article which itemizes the measures to be taken in this area.
- Article 8 supplements the obligations under Article 4, and asks Member States to take the necessary steps to ensure that only refillable or recyclable containers, or containers the constituent materials of which would not make recycling difficult, are brought on to the market. Member States are to give to the Waste Management Committee any information available to them about the bringing of such containers on to the market and any problems to which they might give rise.
- Article 9 concerns the standardization of containers.
- Article 9.1. encourages Member States to extend the use on their territory, of containers which conform with the optional EEC directives.
- Article 9.2. seeks to promote in a general way the standardization of containers in order to develop sorting operations.

Article 9.3. provides that proposals will be made by the Commission with a view to standardizing beverage containers (types and shapes).

Article 10 asks Member States to collect data concerning the results obtained so as to enable a check to be made as to the extent the objectives set by them under Article 3 have been attained.

Every two years, as from 1 January 1985, Member States are to send in a report on these results. Annex II contains guidelines for drawing up this report.

Article 11 asks Member States to notify the Commission of all their draft measures, be they legislative administrative or voluntary, by which they propose to attain the objectives fixed pursuant to Article 3 and to implement the provisions of Article 8 and 9. To this end, the Directive provides that the procedure of the information agreement of 5 March 1973 (1) shall apply.

The objectives set with a view to achieving the objectives provided for under Article 3 are to be communicated to the Commission before 15 October of the year preceding that to which they apply.

Any other measure adopted under the Directive should also be communicated to the Commission.

Article 12 asks Member States to fix the objectives required by Article 3, for the first time in 1984, for the year 1985, taking as reference basis the mean values for the years 1981 to 1983 inclusive.

The measures to be taken with regard to new containers and standardization covered by Articles 8 and 9 respectively are not one-off operations but part of a continuous process. They are to be implemented as from 1 January 1984.

(1) Agreement of the Representatives of the Governments of the Member States meeting in Council of 5 March 1973 (OJ N° C 9, 15.3.1973, p. 1)

PROPOSAL FOR A COUNCIL DIRECTIVE

ON CONTAINERS OF LIQUIDS FOR HUMAN CONSUMPTION

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament (1);

Having regard to the opinion of the Economic and Social Committee (2);

Whereas the first action programme of the European Communities on the environment (3) recognizes the need for Community action relating to certain types of waste, including used containers; whereas the second action programme of the European Communities on the environment (4) emphasizes inter alia the importance of re-using or recycling the various materials contained in waste;

Whereas Article 3 of Council Directive 75/442/EEC of 15 July 1975 on waste (5) calls for the implementation of measures to encourage the prevention, recycling and processing of waste;

(1) OJ N°

(2) OJ N°

(3) OJ N° C 112, 20.12.1973, p. 1

(4) OJ N° C 139, 13.06.1977, p. 33

(5) OJ N° L 194, 25.07.1975, p. 39

Whereas at its meeting of 9 April 1979, when examining the communication from the Commission on the tightening-up of the Community's environmental policy (1), the Council called on the Commission to propose appropriate measures to promote inter alia the standardization of containers of liquids for human consumption (2);

Whereas containers of liquids for human consumption account for a significant proportion of urban waste and are a source of litter; whereas the cost of collecting and disposing of household waste is a matter of growing concern to local authorities and governments in the Member States;

Whereas the environmental impact of used containers should be reduced and a reduction in the consumption of energy and raw materials encouraged;

Whereas Member States should fix, each year and for each type of packaging material, the objectives to be progressively attained in respect of the increase in the quantities of containers refilled and/or recycled and the reduction in the tonnage and/or volume of containers in household waste; whereas moreover for reasons of hygiene or because of special regulations it is impossible, in respect of certain containers of liquids for human consumption, such as for example those of vinegar and olive oil, for them to be refilled;

Whereas, in order to attain these objectives, Member States should take all necessary and appropriate measures, whether by legislative or administrative means or by voluntary agreements, concerning the recovery of waste, technological innovation, the choice of containers and methods of distribution, and consumer education;

(1) COM(79)144 final, 22.03.1979

(2) Document 6755/79 (ENV/73), 29.05.1979

Whereas there are various means of achieving the recovery of waste;
whereas if a deposit system is used certain conditions must be complied with;

Whereas Member States should take all appropriate measures to discourage the bringing on to the market of new containers which are neither refillable nor recyclable or which it would be difficult to recycle;

Whereas Member States should encourage the use on their territory of containers of liquids for human consumption which comply with Council Directive 75/106/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to the making-up by volume of certain prepackaged liquids¹, as amended by Directive 79/1005/EEC²;

Whereas Member States should gather data to enable an assessment to be carried out of the progress made, and should send these data to the Commission every two years in the form of a report;

Whereas the measures taken by Member States to comply with the present Directive should not be at variance with the provisions of the Treaty, and in particular with those concerning the free movement of goods;

Whereas the Commission should be notified of such measures at the draft stage so that it can examine whether they are in line with the present Directive and the EEC Treaty and, where appropriate, ask Member States to suspend the introduction of such measures in order to enable it to prepare proposals in this area and submit them to the Council;

¹ OJ No L 42, 15.2.1975, p. 1.

² OJ No L 308, 4.12.1979, p. 25.

Whereas the Committee on Waste Management set up by Commission Decision 76/431/EEC¹ can play a particularly useful role by advising the Commission concerning the implementation of the Directive, and in particular concerning new containers;

Whereas the Treaty has not provided the necessary powers, and Article 235 of the EEC Treaty should therefore be invoked;

HAS ADOPTED THIS DIRECTIVE:

1

Article 1

The objective of this Directive is to provide for action to be taken in the field of production, marketing, use and disposal of containers of liquids for human consumption in order to reduce the environmental impact of used containers, to encourage a reduction in energy consumption and to save raw materials.

Article 2

For the purposes of this Directive :

- a) "liquids for human consumption" means the liquids listed in Annex I;
- b) "container" means any bottle, can, jar, carton or any other type of initially sealed container (excluding barrels and casks) which contains a liquid for human consumption and is made of glass, metal, plastic, paper or any other material;
- c) "refillable container" means any container which once emptied is capable of being refilled for further use;
- d) "recyclable container" means any container the constituent materials of which can be used to manufacture new containers or different products or, where appropriate, to generate energy;
- e) "returnable container" means any container in respect of which the consumer pays the retailer, at the time of purchase of a liquid for human consumption contained in that container, a certain sum of money (deposit) which is repaid to the consumer when the container is returned;
- f) "recovery of containers" means the re-use of any used container either by refilling or recycling;

Article 3

Each year, Member States shall fix, for each type of packaging material, the objectives to be attained in the following year concerning :

- the reduction in the tonnage and/or volume of containers in household waste;
- the increase in the amount of refilled and/or recycled containers. This increase is to be calculated by comparing the quantities of refilled or recycled containers with the quantities of containers brought on to and used on the market (total quantities of containers produced and imported less the quantities of containers exported).

Article 4

In order to attain the objectives fixed in accordance with Article 3 Member States shall take all necessary and appropriate measures, either by legislative or administrative means or by voluntary agreements.

These measures shall seek inter alia :

- a) to encourage the recovery of used containers, taking into account health factors and any restrictions arising out of Community legislation;
- b) to promote technological innovation;
- c) to bring about changes, where necessary, in the choice of containers and methods of distribution;
- d) to develop consumer education in the use and disposal of containers.

Article 5

Measures to be taken by Member States pursuant to Article 4 relating to the recovery of used containers shall include, in particular, measures which seek to :

- promote selective collections for containers;
- assist the development of effective processes for the sorting and treatment of household waste;
- promote the widest possible range of outlets for the materials recovered from used containers.

Article 6

Measures to be taken by Member States pursuant to Article 4 regarding the promotion of technological innovation shall, without prejudice to considerations of safety, seek to reduce the weight of containers and save energy.

Article 7

1. Measures to be taken by Member States pursuant to Article 4 regarding the choice of containers and methods of distribution may, in particular, seek to increase the proportion of refillable containers used.
2. Where a deposit system is used, Member States shall take steps to ensure that :
 - a) every container of liquids for human consumption which is offered for sale by a retailer clearly bears the symbol "R", either on the container itself or on the label, to indicate that it is a returnable container. The symbol must be affixed in such a way that it will remain intact when the container is opened;
 - b) the consumer is clearly informed of the amount of the deposit.

Article 8

1. Member States shall take the necessary steps by the appropriate means to discourage the bringing on to the market of new containers which are neither refillable nor recyclable or which, because of the materials from which they are made, would be difficult to recycle.
2. They shall communicate to the Committee on Waste Management the information which they have concerning such containers.

Article 9

1. Member States shall encourage the use on their territory of containers of liquids for human consumption which comply with Directive 75/106/EEC.
2. In order to simplify sorting operations and promote the standardization of containers, Member States shall develop, insofar as barriers to trade are not thereby liable to be created, the use of standard containers for the liquids for human consumption listed in Annex I.
3. In consultation with the sectors of industry concerned, the Commission shall establish and submit to the Council as soon as possible, proposals for common rules relating to the standardization of containers for the liquids for human consumption referred to in items 3 and 8 of Annex I.

Article 10

1. Member States shall gather data to enable the results of the measures taken in order to attain the objectives fixed in this Directive to be checked and to enable an assessment to be made of the progress made on their territory. For this purpose, they shall set up appropriate structures and methods insofar as such structures and methods do not already exist.
2. Every two years, as from 1 January 1985, Member States shall submit a report to the Commission on the results and progress referred to in paragraph 1. This report shall be drawn up in accordance with the guidelines given in Annex II.

Article 11

1. Member States shall communicate to the Commission all the draft measures, whether legislative, administrative or in the form of voluntary agreements, by which they propose to attain the objectives fixed in conformity with Article 3 and to apply the provisions of Articles 8 and 9. The provisions of the Agreement of the Representatives of the Governments of the Member States meeting in Council of 5 March 1973 on information for the Commission and for the Member States with a view to possible harmonization throughout the Communities of urgent measures concerning the protection of the environment¹ shall apply with respect to such draft measures.
2. Member States shall notify to the Commission the objectives which they fix in pursuance of Article 3 before 15 October of the year preceding that for which those objectives are fixed. They shall also notify to the Commission the other measures which are adopted pursuant to this Directive.

¹ OJ No C 9, 15.3.1973, p. 1.

Article 12

1. Member States shall fix the objectives referred to in Article 3 for the first time in 1984, in respect of the year 1985, taking as reference basis the mean value for the years 1981 to 1983.
2. Member States shall take the necessary measures for implementing Articles 8 and 9 as from 1 January 1984.

Article 13

This Directive is addressed to the Member States.

Done at

For the Council,

The President,

A N N E X I

- 1) a. Wine of fresh grapes (CCT heading N° ex 22.05 C)
b. Other still fermented beverages, for example cider, perry and mead (CCT heading N° 22.07 B II)
c. Vermouths, and other flavoured wines of fresh grapes (CCT heading N° 22.06) Liqueur wines (CCT heading N° ex 22.05 C)
- 2) a. Sparkling wines (CCT heading N° 22.05 A + B)
b. Other sparkling fermented drinks, for example cider, perry and mead (CCT heading N° 22.07 B I)
- 3) Beer (CCT heading N° 22.03)
- 4) Spirits and other spirituous beverages (CCT heading N° 22.09)
- 5) Vinegar and substitutes for vinegar (CCT heading N° 22.10)
- 6) Edible oils (CCT heading N° 15.07 A I) (CCT heading N° 15.07 D II)
- 7) Milk and milk-based beverages sold by volume (CCT heading N° 04.01) (excluding yoghurt and kephir)
- 8) a. Waters, including spa waters and aerated waters (CCT heading N° 22.01)
b. Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices (CCT heading N° 22.02 A)
- 9) Fruit juices and vegetables juices (CCT heading N° 20.07)

MATERIAL: (glass, PVC, PE, PET, other plastic materials, metal, cardboard composites, other)

	Year concerned	Reference basis
Quantities produced: (tonnes and number of containers)		
Quantities imported: (tonnes and number of containers)		
Quantities exported: (tonnes and number of containers)		
Percentage of re-used containers (by reference to the total quantities of containers produced and im- ported less the quantities exported)		
Percentage of recycled containers (by reference to the total quantities of containers produced and impor- ted less the quantities exported)		
Quantities of non-recovered used containers		

A N N E X I I

The reports referred to in Article 10 shall include :

- Separately for each type of packaging material, the percentages of re-used or recycled containers, by reference to the amount of containers manufactured and imported less the number of exported containers, and/or
- Separately for each type of packaging material, the weight of non-recovered containers in household waste.

These reports shall, as far as possible, include data on the energy consumption arising from each process in the life of a container (production, filling, recycling, etc.).

The reports shall also describe the methods by which the data was gathered and processed.

These reports shall, as far as possible, be presented to the Commission in the following form :

CIRCE

BUDGETS
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DOC. COM/79/202FINAL

11/04/79

COM/79/0202

PROPOSAL FOR A COUNCIL REGULATION (EEC, EURATOM) AMENDING THE FINANCIAL REGULATION OF 21 DECEMBER 1977 APPLICABLE TO THE GENERAL BUDGET OF THE EUROPEAN COMMUNITIES

TRANSMITTED TO COUNCIL 23/04/79

O.J. NO C 110 , 09/05/1979 P.3

E.P. OPINION 09/05/79

O.J. NO C 140 , 05/06/1979 P.53

WITHDRAWN BY THE COMMISSION ON 15/02/1980

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DOC. COM/79/121FINAL

19/05/79

COM/79/0721

PROPOSAL FOR A COUNCIL DECISION ADOPTING A RESEARCH PROGRAMME TO BE IMPLEMENTED BY THE JOINT RESEARCH CENTRE FOR THE EUROPEAN ATOMIC ENERGY COMMUNITY AND FOR THE EUROPEAN ECONOMIC COMMUNITY (1980-1983)

TRANSMITTED TO COUNCIL 20/05/79

O.J. NO C 110 , 03/05/1979 P.4

E.P. OPINION 10/05/79

O.J. NO C 140 , 03/06/1979 P.83

ADOPTED BY THE COUNCIL ON 15/05/80

O.J. NO L 072 , 18/03/1980 P.11
