COUNCIL DIRECTIVE

of 27 June 1985

on containers of liquids for human consumption

(85/339/EEC)

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 (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the action programmes of the European Communities on the environment of 1973 (4), 1977 (5) and 1983 (6) emphasize *inter alia* the importance of recycling or re-using the various materials contained in waste ;

Whereas Article 3 of Council Directive 75/442/EEC of 15 July 1975 on waste (7) calls for the implementation of appropriate steps to encourage the prevention, recycling and processing of waste ;

Whereas containers of liquids for human consumption are a source of waste ;

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

Whereas, in order to attain these objectives, Member States should draw up programmes for reducing the tonnage and/or volume of containers of liquids for human consumption in household waste to be finally disposed of ;

Whereas, within the framework of these programmes, Member States should, either by legislative or administrative means or by voluntary agreements, take measures relating *inter alia* to consumer education, refilling and recycling of containers and technological innovation ;

Whereas the measures taken by Member States should, where appropriate, take account of economic, industrial and market conditions ;

Whereas the measures taken by the Member States should in particular likewise take account of public health requirements ; whereas to that end, pending Community provisions on the matter, Member States may introduce or maintain measures on the manufacture of new containers ;

Whereas the measures taken by Member States to comply with this Directive must comply 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 them in the light of existing agreements and, where appropriate, ask Member States to suspend the introduction of such measures ;

Whereas, since the Treaty has not provided the powers required for this end, recourse should be had to Article 235 thereof,

HAS ADOPTED THIS DIRECTIVE :

Article 1

The purpose of this Directive is to provide for a series of measures relating to the production, marketing, use, recycling and refilling of containers of liquids for human consumption and to the disposal of used containers, in order to reduce the impact of the latter on the environment and to encourage a reduction in the consumption of energy and raw materials in this field.

Article 2

For the purposes of this Directive :

(a) 'liquids for human consumption' means the liquids for human consumption listed in Annex I ;

(b) 'container' means any bottle, can, jar, carton or any other type of 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 ;

(1) OJ No C 204, 13. 8. 1981, p. 6.
(2) OJ No C 242, 12. 9. 1983, p. 92.
(3) OJ No C 343, 31. 12. 1981, p. 23.
(4) OJ No C 112, 20. 12. 1973, p. 1.
(5) OJ No C 139, 13. 6. 1977, p. 33.
(6) OJ No C 46, 17. 2. 1983, p. 1.
(7) OJ No L 194, 25. 7. 1975, p. 39.

(c) 'refillable container' means any container which is intended to be recovered for refilling after use;

(d) 'deposit system' means a system where the buyer pays the seller a sum of money which is reimbursed when the container is returned;

(e) 'recycling of containers' means the manufacture of new containers or other products from used containers or their use as fuel.

Article 3

1. In pursuance of the objectives referred to in Article 1, Member States shall draw up programmes for reducing the tonnage and/or volume of containers of liquids for human consumption in household waste to be finally disposed of.

2. Programmes shall be drawn up for the first time for a period commencing on 1 January 1987 and shall be communicated to the Commission before that date.

3. These programmes shall be revised and updated regularly, at least every four years, taking into account in particular technical progress and changing economic circumstances.

4. These programmes shall take account of the repercussions of the measures envisaged on energy consumption, with a view to achieving as far as possible a reduction in overall energy consumption.

Article 4

1. Within the framework of the programmes referred to in Article 3 and with due regard for the provisions of the Treaty on the free movement of goods, Member States shall, either by legislative or administrative means or by voluntary agreements, take measures designed *inter alia:*

(a) to develop consumer education in the advantages of using refillable containers, recycling containers and eliminating used containers from household waste;

(b) to facilitate the refilling and/or recycling of containers of liquids for human consumption;

(c) as regards non-refillable containers:

— to promote the selective collection of containers,

— to develop effective processes for retrieving containers from household waste,

— to extend the outlets for materials recovered from containers,

in so far as this is economically feasible;

(d) to encourage the technical development and placing on the market of new types of container, with the aim in particular of reducing the consumption of raw materials, facilitating recycling and the final disposal of container waste and achieving overall energy savings;

(e) to maintain and, where possible, increase the proportion of refilled and/or recycled containers and/or to decrease the proportion of non-recycled or non-refillable containers where the conditions of industrial activity and the market so permit.

2. In the context of the measures referred to in paragraph 1, and with due regard for the provisions of the Treaty and other Community provisions on the subject, account should be taken in particular of health factors, including considerations relating to the technical characteristics of the materials used, the necessary safety requirements and industrial and commercial property rights.

To that end, and pending Community regulations on the matter, Member States may, for health reasons, introduce measures or maintain measures in force to exclude the use of certain materials or substances recovered from used containers in the manufacture of new containers.

Article 5

1. Member States shall take steps to ensure that a clear indication is given on new refillable containers offered for sale, either on the container itself or on the label, that the containers concerned are refillable. The indication will be applied in such a manner as to be easily visible, clearly legible and durable, and to remain intact when the container is opened.

This obligation shall not apply for a period of 10 years, from the date of notification of this Directive, to existing systems using refillable glass bottles on which certain information is marked indelibly.

Where, in particular regions, sales of liquids for human consumption, for example milk or cream, have been made for a considerable period using well-established systems for the recovery of glass bottles, it shall not be necessary to indicate on the containers that they are refillable.

2. Where a deposit system is used, Member States shall take appropriate steps to ensure that the consumer is clearly informed of the amount of the deposit.