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Product Policy and Producer Responsibility in Norway

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1. Product policy as part of Norway' environmental policy.

1.1 General introduction

Product policy has for several years been an important part of Norway's environmental policy. The Product Control Act was seen as a major instrument of the Ministry of the Environment when it was adopted in 1976. The life-cycle approach has been a central theme in this work, and has been advocated in policy papers, white papers etc. Recycling is explicitly sated as an objective in the Pollution Control Act from 1981.

As a follow-up to the 1987 Brundtland report, *"sustainable production and consumption"* was for several years a priority area for the Ministry of the Environment, with much focus on product design and composition, resource use, recycling etc. Two important institutions were created, both with the objective of stimulating the production of environmentally friendly products:

- A national center for the promotion and support of sustainable production and consumption in industry and the public sector, as a "joint venture" between the ministry, industry and trade unions (GRIP).[1]
- A Nordic eco-labeling scheme (The Nordic Swan)[2].

In its annual white-paper on Environmental policy and the Status of the Environment for 1999/2000, the government presented *a comprehensive waste policy*. Important objectives were that the increase in the of amount of waste should be considerably lower than the economic growth, and that waste for final disposal should be reduced to 25% of waste generated within 2010. Producer responsibility should be an increasingly important element of its policy. A life-cycle approach was recommended: It was stated that "it is necessary to aim policy instruments towards the early phases of the life cycle of the product, such as choice of raw materials, product design, the production phase, etc." State support to an industry program for environmentally friendly product design was envisaged. The international work on product standards was also mentioned as an important "battlefield".

From rather general statements of intentions and principles, the government has realized the need to consider each type of waste separately, and "tailor" the choice

[1] GRIP has eight main programmes: Finance, Hazardous Chemicals, Purchasing, Government Activities, Travel and Tourism, Wholesale Trades, and EcoBuild and Ecodesign. http://www.grip.no

[2] http://www.svanen.nu

of instruments to the product type in question. It has worked in a practical way to introduce producer responsibility for specific groups of products, in cooperation with the producers and dealers of a product, the users, and the relevant waste collector. As the EC directives in this field also apply to Norway through the EEA agreement, they have supported this effort.

In parallel, Norway has introduced other product-related regulations, such as rules on the classifications, restrictions on the marketing etc. of hazardous substances in conformity with EU rules.

1.2 The Product Control Act.

The general Product Control Act of 1976 gives the government a broad field of authority to issue regulations on products that may cause health hazards, or environmental hazards such as disturbance of ecosystems, pollution including noise, waste problems, or the like. The act applies to the production, including testing import, marketing, use and other handling of products. "Product" is defined in a wide sense as raw materials, subsidiary materials, and semi-manufactured and finished products of all kinds.

The act lays down *a general duty of care* for any person who produces, imports, markets, processes, uses or in any other way handles products that may cause hazards to health, or to the environment in the form of disturbances of ecosystems, pollution, waste, noise or the like. They shall act with due care and implement reasonable measures to prevent or limit such effects.

The act also lays down *an obligation of knowledge*. Any person who produces or imports products has the duty to obtain such knowledge as is necessary to evaluate whether they can cause such effects.

The *duty of substitution* is laid down in the act. Any enterprise using products containing a hazardous chemical shall assess whether there exist alternatives which entail a less risk. The enterprise must chose such an alternative if this can be done without unreasonable cost or inconvenience. This is a rather new rule,[3] and experience from its application is limited. The substitution principle also applies to pesticides.

Pursuant to this act the authorities may by regulation prohibit the production, import and marketing of products, and regulate *i.a*.

- the production, import, trade, labeling, use of products,
- deposit/return schemes, and schemes for recycling and waste treatment of products,
- the composition and design of products,

However, a general principle of producer responsibility is not laid down in legislation.

[3] It was introduced into the Act in 1999.

The act has provisions on duties for producers, importers, retailers etc. to provide necessary information on products, including the public's right to information about hazardous products.

1.3 The Pollution Control Act.

The 1981 Pollution Control Act regulates pollution, in particular from stationary sources. It also covers waste disposal, and lays down the necessary rules for the proper handling of various types of waste. There are separate rules on household wastes, industrial waste, and special waste (including hazardous waste). The act provides the local and central authorities with the necessary tools for promoting recycling, re-use, and use of the waste as an energy resource, and the safe handling and destruction of waste. In this area it works together with the Product Control Act.

The Ministry of Environment and the State Pollution Control Authority are the main state authorities for both acts. Therefore, action according to the two acts may be well coordinated. In the waste sector, the municipalities have important responsibilities and practical functions.

1.4 The Public Procurement Act.

The 1999 Public Procurement Act may be mentioned as one example of legislation which illustrates the policy of a life-cycle approach to products. It requires that state, county and municipal bodies, and bodies which are controlled by such and serve public function, shall take into consideration life-cycle costs and environmental effects when procurements are planned.

2. Producer responsibility.

2.1 The concept of "producer responsibility".

This is a broad concept. In its wide meaning it is probably too broad to have a clear legal meaning. To make legal sense, it should be broken down into more specific obligations for specific actors.

It is often referred to "extended producer responsibility" (EPR). This refers to a responsibility for the product during its whole life cycle, and not only for possible damages from the product, or responsibility for the product as waste.

"Producer" in reality may refer to several producers in the production chain, and also include importer, distributor, retailer etc. In our packaging agreements, all actors in the "packaging chain" are parties.

"Responsibility" also has several meanings: responsibility for certain costs, information on the products possible environmental effects/resource use, take-back and treatment of the product as waste, etc. It may be a question of legal

responsibility, or a more "practical" responsibility, for example for running a take-back system. – It does not necessarily means *exclusive* responsibility. There may also be other important actors in a system such as central and local public agencies, private organizations and the consumers themselves. Responsibility may well be shared, and the "producer" may be responsible for only a part of a system.

The *objective* of producer responsibility should be clarified in order to make this instrument effective. What do we want to achieve? Objectives may be to

- *improve economic efficiency* in the development of products (and thus in environmental policy), putting more of the environmental costs on the producer,
- promote *more sustainable use of natural resources*, in particular reduce consumption of non-renewable resources, etc. (which some economist will say is the same as increasing efficiency, if it is decided by the market),
- *reduce environmental problems*.

Clearly, these three objectives are linked together and partly overlap, but they nevertheless differ. They may even be in mutual contradiction.

Many types of instruments may be used in this field: regulations, economic incentives like taxes, charges and fees, deposit-refund systems, voluntary agreements, voluntary or compulsory labeling systems, other types of information, etc.

2.2 Take-back obligations.

2.2.1 Agreements in the packaging sector.

Take-back obligations have been an important part of the waste policy for many years. To reduce the waste from *packaging,* several instruments are applied to the various types of packing. In this field, *agreements* about return and take-back with the respective branches play a predominant role, in combination with regulations and economic incentives. The first agreements were made in 1995. Formal targets for the return and recycling rate (including as energy) were established in by 1999.

After further developments and renegotiations in 2003, there are now agreements about the return *plastic, metal and glass packaging, carton packaging for beverages, cardboard, and brown paper*.[4] These agreements are meant to implement the EU directive on packaging and packaging waste.[5] According to these agreements the producer has an obligation to take back a certain share of the total amount of packaging. One example of such an agreement, on the collection and recovery of plastic packaging waste, is attached for illustration.

Not only the manufacturer of the packaging, but also other actors in the "packaging chain", are parties to the agreements. The *"packaging chain"* is typically defined as

[4] Until recently, the system for brown paper was based on a special regulation from 1994, but this has now been replaced by the agreement.

[5] Directive 94/62/EEC.

"all economic operators that supply raw materials for packaging, manufacture packaging, import packaging, use packaging for their products or place packaged products on the market".

The agreements oblige the actors in the packaging chain to ensure that a waste collection and recovery scheme is established and operated to collect and recover certain waste products as defined in the agreement, through a *"producer responsibility organization"*. It shall seek to find systems that "give the best overall solutions in socio-economic terms", and "ensure that competition is maximized at all stages of the implementation of the scheme". Any enterprise that forms part of the chain shall be entitled to take part in the scheme. The agreement set targets for a minimum recycling level, and have rules on information measures, reporting, etc.

The obligations of the Ministry are rather limited and somewhat vague. It shall "help to provide a framework that will make it possible for collection and recovery of waste as envisaged in the agreement. This is mainly a question of adequate legislation about waste collection systems in general, information about the systems, etc. The Ministry shall also ensure that public procurement routines require suppliers to participate in the system, and in other ways take part in efforts to avoid "free riders" in the system.

For metal, glass and plastic *beverage packaging* is concerned, a separate deposit/return system applies,[6] whereby the consumer may deliver free of charge empty beverage bottles (both glass and plastic) and cans for recycling. It is organized by the producers and importers of beverage, in cooperation with the distributors. The deposit rate is determined by the SPCA (at present at 1 NOK for small and 2,50 NOK for big bottles). In addition, beverage packaging is subject to a basic charge which stimulates reuse, and a state environmental charge which is being reduced according to the increase in the return rate. Today, the target of 95% return of the beverage packaging has been reached, and no charges are paid.

As for *paper in general*, no national regulation or general agreement applies. However, recycling is promoted through the systems for sorting of household waste in each municipality, and the paper industry receives used paper in considerable amounts.[7]

As far as *competition law* is concerned, the Ministry has been conscious of possible problems when formulating the terms of the agreements. So far, the competition authorities have not reacted. However, the Competition Authority is presently carrying out a study of the agreements in the packaging sector, and a report on this is expected in the near future.

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[6] Regulation of 10 December 1993 no. 1182, pursuant to the Product Control Act.

[7] The rate of recycled paper rose rapidly during the 1980s, but has been fairly steady since the beginning of the 1990s.

General data on the effects of these agreements are available. The government presents an annual white paper on Environmental Policy and the State of the Environment with data on the results in its waste policy.

2.2.2 Regulations with take-back obligations.

Pursuant to the Product Control Act (and for some, also the Pollution Control Act) several regulations on producer responsibility, and in particular take-back obligations, have been adopted in recent years. Most of these are based on and follow the main lines of the corresponding EU directive. However, most of them replace already existing systems, based on agreements and economic incentives. Therefore, *some of the regulations go further than the EU rules*. In particular, a voluntary take back system for electric and electronic products was established in Norway in 1999, and it covers more products than the EU directive. The following regulations apply:

A return system for *end- of- life vehicles* has been in place since the 1970s. From the beginning, this was based on voluntary agreements, combined with a scrap car deposit system. Today, the rules on this are found in a recent Regulation on end-of-life vehicles.[8] They implement the EC rules in this field.[9]

Producers of vehicles will be responsible for receiving and handling end-of-lfe vehicles as waste. In a first phase, this obligation applies to cars which were registered in Norway (the first registration) after 1 July 2002. From 2007 it will apply to all vehicles. The obligation for each producer corresponds to his share of the car market in Norway in the actual year. Before 1 January 2006 the producers shall ensure that 85 % (by weight) of their share are recycled, of which 80% are recycled as material and the rest is used as energy. 95% and 85 %, respectively, must be reached by 2015. The obligation shall be fulfilled by participation in an approved return system. The producers shall ensure satisfactory information to the public about the system.

The pollution control authorities shall approve return systems for scrap vehicles, and whoever runs a treatment facility for such vehicles, needs a pollution permit from the pollution control authorities. The treatment facility must satisfy a number of technical requirements to avoid hazards to the environment. Parts that contain certain dangerous chemicals have to be removed before the ordinary treatment. From 1 July 2003 it is prohibited to produce or import vehicles containing lead, mercury, cadmium and chromium, except for certain specific uses.

When an end-of-life car is delivered to an authorized treatment facility, the owner receives an amount of money (presently in the order of NOK 1.500).[10] The regulation gives detailed rules on the registration, payment etc.

Waste electrical and electronic products ("EE products") are subject to a special regulation[11] which governs the reception, collection, recycling and other proper treatment of these products. The regulation is based on the principle of responsibility for producers and dealers. Its main lines are as follows:

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[8] Regulation of 26 June 2002 no. 750 pursuant to the Product Control Act and the Pollution Control Act.

[9] Directiv 2000/53/EC as amended by decision 2002/151/EC.

[10] Regulation of 21 April 1978 no. 12 with numerous subsequent amendments, the latest by regulation of 23 december 1999 no. 1497.

[11] Regulation of 16 March 1998 no. 197 pursuant to the Pollution Control Act and the Product Control Act with amendments by regulations of 11 June 1999 no 696 and 4 July 2003 no. 952. This is based on an earlier agreement with the industry.

The *distributor* (retailer) of EE products has the duty to accept free of charge scrapped EE products which are consumer waste. He also has to accept free of charge EE products which are production waste against new purchase of an equivalent quantity of new products. This applies to similar types of products as the one he sells, regardless of brand and manufacture. He has then the obligation to sort, keep and transport it safely, so that it is suitable for further handling. He shall ensure that it is transported to a special collection point where this has been established by the producer. If such a collection point is lacking, the distributor must keep the product until it is collected by the producer. The product may also be delivered to an authorized treatment installation.

The *municipalities* are obliged to ensure adequate facilities for the reception of scrapped EE products, the sorting and storing of these products, and transport to a collection point.

The *manufacturer* or the importer of EE products must arrange for the collection, free of charge, of his proportionate share within a geographical area, of EE waste from distributors and municipalities, regardless of brand and manufacture. A manufacturer with special collection point is obliged to receive EE waste from companies that collect waste. Provided that the waste is sorted, kept and transported in such a way that it is suitable for further handling, the manufacturer must receive the waste free of charge. He also must separate components in the EE waste covered by the Regulation on hazardous waste,[12] and have it treated in installations authorized for the destruction of hazardous waste.

The manufacturer shall report annually to the pollution control authorities about the production, export and import of EE products and amounts of EEwaste which is collected, recycled and otherwise treated. He shall also inform the consumer about the possibility to deliver used products to the distributor or municipality.

A special regulation applies to the disposal of scrapped refrigeration devices containing *chlorofluorocarbons* (CFCs).[13] The CFCs shall be removed and treated separately. The municipality must ensure that there are adequate possibilities for reception of such devices. The distributor has an obligation to receive refrigeration devices when selling new ones, and to bring them to the collection point organized by the municipality.

Batteries which are harmful to the environment, are subject to a special regulation.[14] The regulation implements EU rules in this field.[15] Certain types of batteries are prohibited altogether, in particular batteries with a mercury content of 5 ppm or more (reg. Art. 4). Generally, batteries have to be properly labeled.

The retailers have the duty to receive, free of charge, scrapped batteries of the same categories as the retailer sells, in a reasonable amount compared to the amount he sells (reg. Art. 5). He has the duty to have them transported to a collection point for scrapped batteries, where such exists.

Enterprises have a duty to deliver scrapped batteries containing lead or nickel/cadmium to authorized installations for the treatment as special waste (reg. Art. 6). Such batteries shave to be delivered at least once a year.

Also, producers and importers are obliged to organize collection of scrapped batteries that may be harmful to the environment, for recycling or an acceptable final disposal of at least 95% of the batteries (reg. Art. 7). A reporting and documentation system is prescribed (reg. Art. 8).

Similarly, there is a regulation relating to the disposal, collection and recycling of *discarded tyres* for motor vehicles and trailers.[16] The disposal of tyres in refuse tips/landfills is prohibited (reg. Art. 4).

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[12] Regulation of 20 December 2002 no. 1817, se *supra*.

[13] Regulation of 10 December 1996 no. 1310, amended by regulation 22 September 2003 no. 1193. pursuant to the Pollution Control Act and the Product Control Act.

[14] Regulation of 17 July 1990 no. 616, with later amendments, the latest by regulation of 22 September 2003 no. 1193, pursuant to the Product Control Act, and the Pollution Control Act.

[15] Directive 91/157/EEC and Commission directive 1998/101/EC.

[16] Regulation of 25 March 1994 no. 246, pursuant to the Product Control Act, as amended by regulations of 2 September 1994 and 11 October 2001 no. 1208.

Distributors of tyres are obliged to accept discarded tyres free of charge, limited to a reasonable amount of the category of tyres sold by the dealer (reg. Art. 5). The *manufacturer/importer* is obliged to collect discarded tyres free of charge from distributors in the geographical area where the producer's tyres have been sold, limited to a reasonable amount of the category of tyres sold. This obligation can be fulfilled by a third party (reg. Art. 5). The manufacturer/importer is obliged to ensure that the tyres are recycled (reg. Art. 6). There are also obligations related to reporting and information (reg. Arts. 7 and 8).

In order to stimulate the collection and proper treatment of waste oil, a charge and refund system for *waste oil*, such as lubricating oil, was introduced in 1994. The charge is refunded when waste oil is delivered to an authorized collector. Presently, some 75% of waste oil is collected.

A special regulation[17] lays down rules on the handling as waste of *photographic chemicals* from activities within photography, roentgenography and the graphics industry. These substances are also subject to the general regulation on hazardous waste (reg. Art. 1). They must be collected for recycling or treatment. Certain chemicals may be conveyed into a sewer if, after treatment, the concentration of various heavy metals do not exceed levels defined in the regulation (reg. Art. 2). Anyone who undertakes collection, reception or treatment of others' chemicals must have a pollution permit according to the Pollution Control Act (reg. Art. 4).

2.3 Regulation of hazardous substances.

2.3.1 The general policy lines.

As far as hazardous substances is concerned, the general policy objective is to reduce the concentration of the most dangerous substances to their natural level. For man-made substances, the long term policy objective is the virtual elimination of concentrations in nature. According to the internationally adopted *"generation objective"*, the emission of substances that constitute a serious threat to the environment should be eliminated within a generation, or the year 2020.[18] More precise objectives, based on their gradual phasing out, have been established for the most dangerous substances.

To a large extent, the national efforts in this important field are based on international agreements and conventions, and internationally agreed criteria. Through the EEA Agreement Norway has implemented the relevant EC directives and regulations in the field. Many of these are based on the work within the framework of the North Sea Agreements and protocols pursuant to the OSPAR Conventions, which Norway implements. The discussion within the EU on the chemical policy, and the UN Convention on Persistent Organic Compounds, which Norway has ratified, also play an important role in the shaping of Norway's policy.

2.3.2 Product-specific regulations.

On the basis of the Product Control Act, a comprehensive set of regulations have been adopted with the purpose of controlling the development, marketing and use of chemicals. To a large extent, these regulations are in accordance with - and implement - the extensive set of EU directives in this field.

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[17] Regulation of 25 July 1992 no. 584, amended by regulation of 22 September 2003 no. 1193, pursuant to the Pollution Control Act.

[18] This objective has been established within the framework of the OSPAR Convention.

In particular, the *Regulation on restrictions on the use etc. of certain dangerous chemicals*[19] lays down strict rules about the production, import, export, trade and use of the most dangerous chemicals: vinylchloride (§ 2-1), PCB and substances to replace PCB (§ 2-2), benzene (§ 2-3), benzidine ans similar substances (§ 2-4), lead and lead compounds in paintings and in shots (§ 2-5), mercury compounds (§ 2-6), arsen compounds (§ 2-7), organotin compounds (§ 2-8), dibutyltinhydrogeborate (§ 2-9), pentachlorophenol (§ 2-10), cadmium and cadmium compounds in painting (§ 2-11), for stabilization of products (§ 2-12) and for surface treatment of metal (§ 2-13), creosote (§ 2-14), chlorinated solvents (§ 2-15), heksachlorethane (§ 2-16) and several other dangerous chemicals (§2-17 - § 2-20).

As the main rule, *it is prohibited to produce, import, export, trade or use these chemicals*. For some, the prohibition applies to certain types of uses which are specified in the regulation.

The regulation also restricts the production, import, export, trade and use of certain *groups of products*: products containing PCB or substances to replace PCB (§ 3-1), aerosol boxes with certain types of chemicals (§ 3-2), the use of certain chemicals in objects for decoration, amusement etc. (§ 3-3), textiles and leather products containing certain chemicals (§ 3-4), jewelry, spectacles, etc. containing nickel (§ 3-5), wood treated with chromium, arsene or creosote (§ 3-6 and § 3-7), detergents (§ 3-8 - § 3-10), and heavy metals in packaging (§ 3-11).

For *ozone-depleting substances* a special regulation applies, which implements the international rules in this field.[20]

A special category of hazardous substances is *microbiological products*. A regulation has been issued with the purpose of preventing microorganisms in such products from damaging human health or the environment.[21] It applies to products that may involve release of microorganisms into the outdoor environment. By microorganism is meant "any microbiological entity that is able to reproduce or transfer genetic material, including viruses, bacteria, single-celled plants and animals and microscopic yeast and moulds" (reg. Art. 3).

Examples of microbiological products are certain products for sanitary cleaning, deodorization, cleansing drains and cleaning up of oil spills. The regulation regulates the declaration and labeling of such products that are imported to, manufactured in or marketed in Norway. Any person that manufactures or imports such products or places them on the market in Norway, must declare any information necessary for the assessment of the risk the product poses to health and the environment. The label must indicate the area of application of the product and recommended precautions in connection with use.

Pesticides are subject to a special Act[22] and regulations under the responsibility of the Ministry of Agriculture. The main rule of the act is that all pesticides have to be approved by the agricultural authorities, on the basis of an assessment of their properties as regards toxicity and effects. A regulation lays down specific rules on classification, labeling, production, import, sale, storage and use of pesticides, including rules on inspection, enforcement, penal sanctions in case of violations etc.

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[19] Regulation of 20 December 2002 no. 1823 on restrictions on the use etc. of certain dangerous chemicals, pursuant to the Product Control Act. This regulation replaced 14 former regulations about specific substances. It implements the EU directive 76/769/EEC, with its numerous later amendments.

[20] Regulation of 20 December 2002 no. 1818.

[21] Regulation of 22 January 1998 no. 93 on declaration and labeling of microbiological products that may be introduced into the natural environment, pursuant to the Product Control Act. It implements the EU directive in the field, directive 83/189/EEC, with later amendments.

[22] Act of 5 April 1963 no. 9.

Since 1970, the sales of pesticides in Norway have been reduced by some 2/3. This may be partly due to the introduction and gradual increase of *environmental taxes* on these substances. Rules on these taxes are found in the regulation. The taxes vary with the toxicity of the substance.

2.4 Eco-labeling.

The Nordic Swan eco-label is a semi-public institution – a common system for all the Nordic countries. It is formally independent of the government, and is not based in legislation or regulations. In Norway, it is mainly financed by the producers who obtain the licence to use the label. A small part of the budget comes from the government, and the government appoints the board chairman.

To have the right ("licence") to use the label, a product or service has to meet a number of criteria which have been established for each product or service type. These criteria are based on in–depth assessments, discussions, and hearings, and finally decided by the Nordic boards. In principle, a life-cycle approach is applied. However, since a full life-cycle analysis may be extremely difficult, costly and time-consuming, a pragmatic approach has been developed, based on a "rougher" system of "life-cycle assessment". The core of this is to concentrate on the most important aspects of the product or service in question, seen in an environmental and resource perspective. The work is based on the standard for eco-labeling in ISO 14024.

So far, criteria have been established for 53 product groups. More than 1000 licences covering 3.500 products have been assigned.

The EU eco-labeling system also works in Norway. There is a close cooperation between these two systems. In fact, they have a common secretariat, and there is a mutual discussion and exchange of information between the systems. To a large extent, the criteria are similar.

15. January 2004/revised 18. January 2004

Annex

AGREEMENT ON THE COLLECTION AND RECOVERY OF PLASTIC PACKAGING WASTE AND ON THE OPTIMISATION OF PLASTIC PACKAGING

§ 1 THE PARTIES TO THE AGREEMENT

1) The Norwegian Ministry of the Environment.
2) The plastic packaging chain, represented by the Norwegian Plastics Federation, the Norwegian Federation of Paint and Lacquer Manufacturers, the Federation of Norwegian Construction Industries, the Norwegian Petroleum Industry Association, the Norwegian Association of Branded Product Manufacturers, the Federation of Norwegian Food and Drink Industry, the Norwegian Grocery Trade's Environment and Packaging Forum and the Confederation of Norwegian Business and Industry.

§ 2 PURPOSE

The purpose of this agreement is to reduce the environmental problems caused by plastic packaging waste by reducing the quantity of such waste, by packaging optimisation and by ensuring that such waste is collected and recovered whenever this is appropriate taking into account environmental and resource considerations and economic factors.

The agreement is a step in implementing the principle that the business sector is responsible for waste from its own products, and follows up Report No. 2 (1994-1995) to the Storting, the 1995 Revised National Budget and the Recommendation of the Standing Committee on Finance and Economic Affairs regarding the budget, cf. Recommendation S. IV (1994-1995).

The agreement is also intended to ensure implementation of the requirements of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, which has been incorporated into the Annex II of the EEA Agreement.

§ 3 DEFINITIONS

For the purpose of this agreement, the following definitions apply:

plastic packaging	all types of plastics that are used as packaging.
packaging	all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. The term packaging does not include road, rail, ship and air containers.
packaging waste	discarded packaging.
packaging chain	all economic operators that supply raw materials for packaging, manufacture packaging, import packaging, use packaging for their products or place packaged products on the market.
packaging optimisation	continuous improvement of packaging throughout the value chain in order to maintain adequate protection of the packaged goods combined with the lowest possible use of resources and environmental impact and the highest possible degree of recycling and energy recovery.
recovery	utilisation of waste by recycling or energy recovery.

recycling	utilisation of waste in a way that wholly or partly retains the materials of which it consists, either directly for its original purpose or for other purposes.
energy recovery	utilisation of the energy in waste by incineration.
hazardous waste	waste that cannot appropriately be treated together with other waste because it may cause serious pollution or a risk of injury to people and animals, cf. the definition in the Regulations of 20 December 2002 relating to hazardous waste.
packaging for hazardous waste	packaging used to contain products that when discarded are classified as hazardous waste.

§ 4 SCOPE

The agreement applies to all packaging made of plastic for all types of products, with the following exceptions:

- packaging that comes within the scope of decisions by the Storting concerning environmental taxes on packaging that are valid at any given time,
- packaging that has been used for chemicals labelled as “toxic”, “very toxic”, “explosive”, “oxidising” or “extremely flammable”, cf. the Regulations of 16 July 2002 relating to the classification, labelling, etc., of dangerous chemicals.

§ 5 OBLIGATIONS OF THE PLASTIC PACKAGING CHAIN

5.1 Requirements concerning the waste collection and recovery scheme

The plastic packaging chain shall ensure that a waste collection and recovery scheme is established and operated to collect and recover waste from plastic packaging in accordance with this agreement. This can be done through a producer responsibility organisation.

The plastic packaging chain shall seek to find systems for the collection and recovery of plastic packaging that give the best overall solutions in socio-economic terms. It shall also seek to ensure that competition is maximised at all stages of the implementation of the waste collection and recovery scheme. Only enterprises that form part of the plastic packaging chain or organisations that represent such enterprises may be owners of or be represented in the governing bodies of the waste collection and recovery scheme. Enterprises that are principally engaged in the collection and/or recovery of plastic packaging waste and organisations that mainly represent such enterprises may not be owners of or be represented in the governing bodies of the waste collection and recovery scheme.

The ownership structure of the waste collection and recovery scheme shall be representative of the various parts of the plastic packaging chain and of the enterprises and/or organisations that make up each part of the packaging chain.

Any enterprise that forms part of the plastic packaging chain shall be entitled to take part in the waste collection and recovery scheme for plastic packaging.

No dividend shall be paid to the owners of the scheme.

5.2 Packaging optimisation

The plastic packaging chain shall cooperate with the packaging chains for other types of packaging in order to optimise packaging. The aim is to reduce overall environmental impact throughout the packaging chain, including the quantity of plastic packaging waste.

The operators in the plastic packaging chain shall be encouraged to introduce their own control regimes to ensure that packaging is optimised, using relevant standards as a basis.

An annual report shall be drawn up describing the work of the packaging chains and the results of efforts to optimise packaging, including an overview of further plans for packaging optimisation. The report shall focus on measures that have been introduced, expertise/training and information, and shall describe changes in the quantity of packaging generated by weight (in tonnes) and the percentage change from the previous year.

The plastic packaging chain shall in cooperation with the other packaging chains develop methods for registering developments in packaging, including changes in packaging quantities, and seek to identify the factors behind these developments. Furthermore, it shall ensure that all parts of the packaging chains receive information on this work[23], so that individual operators can use the information in their efforts to optimise packaging.

The plastic packaging chain shall seek to ensure that the packaging they use meets the essential requirements set out in Article 9 of European Parliament and Council Directive 94/62/EC.

5.3 Targets for the collection and recovery of plastic packaging waste

The target of a minimum recycling level of 30 per cent for plastic packaging waste is to be maintained. On the basis of the actual recycling level in 2002, the quantity of plastic packaging waste recycled is to be increased each year so that the target is reached in 2008. At least 50 per cent of all plastic packaging waste shall be used for energy recovery every year.

At least 60 per cent of packaging waste made of expanded polystyrene (EPS) shall be recovered: at least 50 per cent shall be recycled and the rest used for energy recovery every year.

The parties shall maintain a dialogue on how these targets can be achieved as experience is gained and new results become available.

5.3.1 Collection and recovery of packaging for hazardous waste

Packaging for hazardous waste may only be collected and recovered provided that this can be done in a sound manner and that a high level of safety can be maintained, so that hazardous waste does not go astray or cause injury to people or animals or environmental damage.

The plastic packaging chain shall consider further which fractions of packaging for hazardous waste are to be collected for recovery and how this is to be done.

The plastic packaging chain shall introduce measures to prevent hazardous waste from being collected together with plastic packaging waste. It shall also ensure that any hazardous waste collected by mistake is treated in a sound manner.

The plastic packaging chain is responsible for carrying out any necessary projects and studies, for drawing up routines and for the information measures needed to ensure the implementation of this section.

Any information material targeted at persons that possess waste with a view to the collection of discarded packaging for hazardous waste must clearly explain that hazardous waste shall still be delivered to legal facilities for hazardous waste treatment.

The Norwegian Pollution Control Authority shall be notified of any significant problems that arise. In the annual reports required pursuant to section 5.5, the figures for the quantity of waste packaging for hazardous waste generated and collected shall be reported separately. In addition, figures may be

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[23] This can for example be done by continuing to develop ways of measuring material efficiency and material use and continuing the work of measuring packaging use and distribution efficiency (projects are in progress in both these fields in Norway).

provided to show the total quantity of waste packaging generated and collected, including packaging for hazardous waste.

If experience gained from collecting and recovering packaging for hazardous waste indicates that this is necessary, the plastic packaging chain may discuss any amendments that may be needed to this agreement with the Ministry of the Environment.

5.4 Information

The plastic packaging chain shall carry out any information measures necessary to ensure the implementation of this agreement.

5.5 Annual reports

The plastic packaging chain shall ensure that annual reports are made to the Norwegian Pollution Control Authority describing how the obligations set out in this agreement are being met. The annual report shall be submitted by 1 April the following year.

The reports shall provide information on the production, import and export of plastic packaging and on the collection and recovery of plastic packaging waste.

Reports on packaging optimisation pursuant to section 5.2 of this agreement shall be provided in cooperation with packaging chains for other packaging materials that have concluded similar agreements. These reports shall be submitted by 1 June the following year.

The Norwegian Pollution Control Authority may draw up further guidelines on the preparation of reports, including the preparation of statistical data on packaging. Such guidelines shall be drawn up in consultation with the plastic packaging chain. The aim is to arrive at harmonised measuring methods to be used by all the packaging chains, the Nordic countries and in the long term by all EEA member states.

§ 6 MEASURES TO BE IMPLEMENTED BY THE MINISTRY OF THE ENVIRONMENT

The Ministry of the Environment will help to provide a framework that will make it possible for collection and recovery of waste plastic packaging to be carried out as efficiently as possible.

The Ministry of the Environment will ensure that plastic packaging collected and recovered through other schemes than those established pursuant to this agreement is included in the evaluation of whether the obligations set out in section 5.3 have been met.

The Ministry of the Environment will seek to ensure that public procurement routines for the purchase of goods with packaging covered by this agreement include specifications requiring suppliers to participate in a system for the collection and recovery of packaging waste for the products they are to supply, for example Materialretur AS.

The Ministry of the Environment will as appropriate help to provide information on packaging optimisation and the collection and recovery of packaging waste.

The Ministry of the Environment shall as necessary take an active part in efforts to ensure that as many as possible of the economic operators in the plastic packaging chain support the work of achieving the targets of this agreement and efforts to avoid “free riders” in the system.

§ 7 FINAL PROVISIONS

The waste collection and recovery scheme for plastic packaging operates at its own risk. The Ministry of the Environment is not responsible for any agreements concluded in order to fulfil the obligations set out in this agreement.

This agreement does not prevent any person from collecting or recovering plastic packaging or organising systems for the collection and recovery of such packaging.

This agreement is concluded with the reservation that the legislative framework for packaging may be altered as a result of decisions by the Storting or as a result of Norway's obligations under the EEA Agreement. Other significant changes in the economic, political, environmental or market framework for this agreement will be grounds for re-negotiating the agreement or parts of it.

If the parties do not agree on re-negotiation, the agreement may be terminated by either of the parties or by the parties jointly. The agreement remains in force until it is terminated by one of the parties or by the parties jointly.

This agreement terminates the agreement of 14 September 1995 between the Ministry of the Environment and the plastic packaging chain.

Two – 2 – copies of this agreement have been issued, one to the Ministry of the Environment and one to the representatives of the plastic packaging chain.

Oslo, 21 March 2003

For the Ministry of the Environment:

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Minister of the Environment
Børge Brende

For the plastic packaging chain:

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Norwegian Plastics Federation
Steinar Skilhagen

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Norwegian Federation of Paint and Lacquer Manufacturers
Trygve Østmoe

……..
Federation of Norwegian Construction Industries
Arne Skjelle

……..
Norwegian Petroleum Industry Association
Inger Lise Nøstvik

……
Norwegian Association of Branded Product Manufacturers
Erik Askautrud

……..
Federation of Norwegian Food and Drink Industry
Knut Maroni

……
Norwegian Grocery Trade's Environment and Packaging Forum
Kjell Olav Maldum

……
Confederation of Norwegian Business and Industry
Helge Fredriksen