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Convergence of National Governance under European Integration?

The Case of Packaging Waste.

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Abstract

This paper traces the development of packaging waste policies in Germany, the Netherlands and the United Kingdom. The aim is to add another case study to the general debate about the question whether national modes of governance converge due to European integration. The issue of packaging and the environment was chosen because a) member-states differed significantly in their national approaches to govern this problem in early 1990 and b) a European packaging directive was adopted in 1994 to harmonise national policies while securing a high level of environmental protection. The findings reveal a mixed picture of convergence and persisting diversity. Due to EC case law a convergence towards the German legalistic approach took place. Policy targets, however, are still quite diverse, since the institutional logic of EU decision making favours exemptions, i.e. it enables the "greener" minority to pursue higher targets than agreed on. Diversity also continued to persist with regard to the distribution of responsibilities in waste management. Due to policy-oriented learning, local authorities play an important role in the UK and the Netherlands, while Germany is forced by path dependency (sunk costs) to stick to a private waste collection system, despite heavy criticism. The convergence towards a more legalistic mode of governance clashed with environmental policy traditions in the UK and the Netherlands. It matched and reinforced, however, recent developments in the national approaches of waste and environmental policymaking in these two countries.

Public and private actors involved

BMU	(German) Ministry of the Environment
BMWi	(German) Ministry of Economic Affairs
BRC	British Retail Consortium (retailer trade association)
COPAC	Consortium of the Packaging Chain (British consortium of six trade associations)
DoE	(British) Department of the Environment
DTI	(British) Department of Trade and Industry
DSD	Duales System Deutschland (Industry organisation that runs the German collection and recycling scheme)
ECJ	European Court of Justice
EZ	(Dutch) Ministry of Economic Affairs
INCPEN	The Industry Council for Packaging and the Environment (British association, representing packaging interests)
MKB	(Dutch) peak association of small and medium sized enterprises
PAC	Packaging Advisory Committee (9 senior managers from leading British companies from all sectors of the packaging chain, since Jan. 1996)
PRG	Producer Responsibility Industry Group (Senior representatives of 26 leading British companies, mainly packers/fillers/retailers 1993-1994)
SVM	Foundation of Packaging and the Environment (Dutch industry foundation representing packaging interests of the packaging chain, 1971)
VALPAK	Industry organisation for running the British collective recovery and recycling scheme
VNO-NCW	(Dutch) peak organisation of employer organisations
VROM	(Dutch) Environment Ministry
V-WRAG	VALPAK-Working Responsibility Advisory Group (Delegates of some 50 companies representing all sectors of the packaging chain, 1994-1995)

1. Introduction

Industrialised countries all over the world are confronted with similar developments and problems. Examples are the ageing of the population, migration, the internationalisation of the economy, unemployment, rising costs of the welfare state, and the pollution of air, water and soil.

Notwithstanding these common contingencies, the various states tend to react differently. Comparative political studies have shown that national states pursue distinctive policies to combat similar problems (see e.g. for unemployment: Scharpf 1987, Weir and Skocpol 1985, for environmental protection: Lundqvist 1974, Vogel 1986). Even when policy-makers are inspired by the same ideology, as in the case of the neo-liberal reform of the health sector and the telecommunication sectors in Germany and Britain, the outcomes of the reforms can differ remarkably (see Lehmbruch 1988).

National modes of governance differ for instance in the intensity of state intervention, the choice of policy instruments, the degree of formalisation of policy formation and implementation, the importance of negotiation versus imposition and the degree to which non-governmental actors participate in the policymaking process. They differ by the number of participants, by intensity of contacts and by the stability of the relationships.

These variations were related to differences in political institutions such as the horizontal and vertical organisation of the state, the legal system, or the voting system. Given their rootedness in state institutions, such national systems of governance might change only under the impact of major political, economical or cultural developments.

One such event may be the integration of Western Europe. The European Union in particular might influence national political choices in various ways. Member-states may be forced to harmonise their approaches due to negative or positive integration. Furthermore, European institutions and preferences might influence national choices by prestructuring the national decision making process, or by providing a framework for increased debate about policy problems and solutions, thus facilitating policy learning.

But what are the effects that political and legal integration have had on national governance so far? Reviewing the few comparative studies made in this context so far, Kohler-Koch shows the persisting strength of the state. For instance, a case study on social policy done by Kurzer concludes that "*national governments have lost none of their important decision making capacity*" (cited in Kohler-Koch 1996: 365). And a comparative quantitative analysis of indicators of national governance, institutions and public attitude made by Armingeon revealed that "*when compared to other highly industrialised countries of the West, decades of close supra-national co-operation have not produced significant convergence with regard to basic characteristics of policymaking, policies and political attitudes*" (Armingeon 1993, cited in Kohler-Koch 360). The objective of this paper is to broaden the empirical base of the convergence-persisting diversity debate. Packaging waste is an example, where national modes of governance differed significantly in the late

1980s and early 1990s. As many other problems of modern society, the issue of packaging and the environment is characterised by a plurality of problem perceptions and interests, a dynamic context and scientific uncertainty (e.g. about the most environmentally sound types of packaging or waste management options). Conflicts arise not only between environmentalists and industry. There are also differences of interests within and between the different sectors of the so-called packaging chain (including raw material producers, packaging manufacturers, the packers and fillers, and the retailers and distributors of packaged goods). Policies aimed at reducing the amount of waste or changing the constitution of packaging, intervene into markets. Such regulatory policies can have serious redistributive effects and tend to distort the free movement of goods.

Given the close interrelation of environmental protection and single market policy in this field, and, given the European Directive on Packaging and Packaging Waste, adopted in 1994, one would expect a higher degree of convergence than in fields like social policy. The paper will not only look whether and to what extent convergence of national modes of governance takes place in the area of packaging waste, but also analyse the process in which national modes of governance are transformed or continue to persist. Finally, it will trace the reasons for convergence or the persistence of national modes of governance, and try to answer the question whether and how European integration impinged on the national policy arena.¹

The paper is informed by the institutional tradition of public policy research². However, the theoretical claim of the paper is modest. While not denying the importance of actors and their interests, I want to emphasise three aspects of EU policymaking which seem to be underestimated or even neglected by rational choice-informed scholars. First, I will draw attention to the fact that nation states are not simply actors but also a separate context with particular institutionalised modes of state-society relations that constrain the choices available to actors. Secondly, available options are also constrained by the EU institutional frameworks, for instance the system of legal rules as interpreted and developed by the European Court of Justice (Gehring 1996: 1). Thirdly, extensive pre-existing policies fundamentally shape the incentives and resources of political actors (Rose 1990 cited in Pierson 1996). *"Large consequences may result from relatively small and contingent events, particular causes of action, once introduced, are often virtually impossible to reverse"* (Pierson 1996: 1). Unintended consequences are likely to emerge, because decision makers operate with limited information and under time constraints in a complex and interdependent

¹ Several authors have used the concept of governance to approach political action beyond the nation state (see e.g. Kohler-Koch 1996, Marks, Hooghe and Blank 1996). The concept embraces both the different political levels (supra-national, national, subnational) and the public-private dimension. In this paper the term "governance" will be used in its broadest sense. The question how a sector is governed, includes characteristics of the policy process (e.g. modes of interest intermediation, degree of pressure put on industry), policy outcomes (e.g. policy targets, instruments, and allocation of responsibility) and regulatory styles (e.g. interventionist, incremental).

² Neo-institutionalism has been developed in the context of comparative public policy research (see for a recent overview: Immergut 1997, Hall and Taylor 1996). In recent years it has also been applied to European Integration research (see Pierson 1995, Gehring 1996, Kerremans 1996).

environment where feedback loops and interaction effects of various kinds are ubiquitous (see Pierson 1995: 5). Choices encourage the emergence of elaborate social and economic networks. This greatly increases the cost of adopting once-possible alternatives and inhibiting exit from current policy path (Pierson 1995: 18).

The paper proceeds as follows. First, national modes of governance prior to the European directive will be compared. Then, I will analyse the main features of the policy formulation process and the policy content of the European directive. Finally, I will account for the changes of - and continuities in - the packaging waste policies of the member-states in the mid 1990s.

2. National Modes of Governance

In the late 1980s and early 1990s, European Community member-states approached the issue of packaging and environment in different ways (for an overview see table 1).

2.1 Germany: Setting the Pace

Compared to the British and the Dutch approach, the German 1991 packaging ordinance "Verpackungsverordnung", had the most impositional character. The ordinance obliged the retailers to take back used sales packaging from the consumer and process them. It also introduced mandatory deposits for a range of products. Industry can be exempted from these provisions when it set up a collective recycling system that met quite ambitious recycling targets (see table 1) within a relatively short period. In order to maintain the existing level of re-use, the ordinance also fixed minimum quota for drinks sold in refillables (refillable quota). If the collective system would fail to meet the targets, take-back obligations and the mandatory deposit would be introduced (Bundesregierung 1991).

The policy process resulting in the ordinance can be summarised as follows: Within a highly politicised context ("waste mountains", "waste avalanche"), a determined Minister of the Environment aimed at introducing the polluter pays principle in area of consumer waste. Besides this principle, German environmental policy had also been guided by the co-operation principle. After purely voluntary agreements between government and industry to cope with the problem of drink packaging having failed, the government returned to the more legalistic route prevalent in German environmental policy for more than two decades (Spies 1994). By doing so, the German government could also rely on the ECJ judgement in the Danish bottle case, which made clear that environmental protection action may be allowed, even though it distorts markets (see ECR 1988: 4607-4633).

The ordinance was not unilaterally imposed by the German government, but was partly the result of a negotiation process between government and peak associations of German trade and industry. The take-back responsibility for retailers was the stick to force industry to come up with an alternative. The Minister for the Environment, Toepfer, used it to put pressure on the retailers. The retailers feared that they would become the "dustbin of Germany". They exerted power through the packaging chain, committing - with support of the peak trade associations - large parts of the packers and fillers and the packaging industry to participate in a collective scheme (Interview BMWi 1996). Industry agreed upon the collective scheme -the Duales System Deutschland (DSD)- in 1990. Thus doing so, before the packaging ordinance was adopted (AGVU 1990: 1). The ordinance still had the form of a draft which needed the assent of the German Bundesrat (the Chamber of Laendergovernments), in which the parties which were in the opposition in the Federal Parliament held a majority. This "greener" institution forced the government to accept two provisions: the refillable quota and the obligation that recycling is confined to material recycling, thus excluding incineration with energy recovery³ (Spies 1994: 282). The whole process was characterised by high politicisation, public pressure, time constraints, and uncertainty (e.g. technological devices for plastic recycling).

2.2 The Netherlands: When Gentlemen do Agree

The Dutch industry has to meet recycling targets that are lower than those in Germany but higher than the British ones. Unique in Europe, however, industry had to undertake to reduce - by the year 2000 at the latest - the quantity of packaging newly introduced into the market to below the quantity for the reference year 1986 (for an overview, see table 1).

The Dutch mode of governance has been less impositional than the German approach. It can be seen in the long tradition of corporatist and consensus-oriented policymaking: Government and the Foundation of Packaging and the Environment (SVM) - representing large parts of industry agreed on a bundle of measures in order to meet the ambitious prevention and fairly demanding recycling targets. The packaging chain is obliged to create recycling capacity, use recycling material in new packaging, initiate pilot projects for the collection and sorting of packaging waste, and, provide indications on packaging to facilitate sorting. The negotiated agreement was binding under private law.

The Dutch waste policy is based on the Memorandum on the Prevention and Recycling of Waste. It sets indicative reduction and recycling targets (including deadlines) for 29 priority waste streams and also elaborates the procedure in which concrete measures should be negotiated with the target groups. The rationale for a consensual policy style with respect to waste has been elaborated by a letter of Minister Nijpels

³ Minister Toepfer did not put much effort in trying to change the minds of the Laender. The federal structure of Germany strengthend his pro-environment beliefs vis-à-vis the Minister of Economic Affairs, who took a less "greener" view (Interview Ministry of the Environment of Northrine Westfalia 1996).

that was attached to the Memorandum. The minister wrote *"I regard this Memorandum as the beginning of a process that will cover all aspects of waste policy. To discuss with the concerned groups the targets, the measures and activities needed to achieve a more effective prevention and recycling of waste. It must be obvious that I expect more results from such an approach than from the one-sided use of legislation. Formulating an approach that is not carried by those concerned, is most difficult to uphold and therefore hardly brooking of success"* (cited in Koppen 1994: 159).

One reason for the new approach has been an implementation gap in environmental policy which was discovered by policy analysts that was partly related to the lack of support from the target groups concerned. Koppen argued that *"the effort made to involve the social partners, referred to as target groups, early on in the decision making process must be seen as an attempt to avoid opposition to the proposed measure in a later stage of the policy process"* (1994: 159).

The Packaging Covenant has been the outcome of an intensive public-private interaction process that can be divided in two phases: the consultation phase and the negotiation phase. For the consultation phase (1989-1990) the government established a comprehensive network including government, business, NGO's, scientists etc. It is worthwhile to note that also outside facilitators were involved. Process managers (mainly consultants), who resembled the role played by mediators in the alternative dispute resolution procedures in the US (Koppen 1994: 163). The participants of the strategic discussion met frequently. More than 270 sessions, either of the main group or the subgroups, were held in total (Mingelen 1995: 43). The function of this network was to collect and diffuse information about the environmental problems of packaging waste, to discuss policy options and suitable means to implement them, to internalise the packaging waste problems and to legitimise political action, through achieving a common understanding of the problem. The strategic discussion failed to reach agreement on two critical points, the introduction of mandatory deposit schemes, and the waste reduction targets (Koppen 1994: 165). Later in 1990 the Ministry for the Environment and the SVM therefore decided to break off the plenary negotiations and to continue bilaterally. A compromise could be found based on a package deal. On the one hand, the decision about the comprehensive introduction of re-use systems backed by deposit systems was adjourned to the implementation phase of the agreement and the SVM was able to prevent any direct discriminatory measures concerning certain types of packaging. On the other hand industry had to accept a quantified prevention target.

2.3 United Kingdom: How to Dress the Window

The UK government favoured an approach that was based on self regulation of industry. A very broad and from an international viewpoint, modest recycling target for domestic waste has been set. This target was not legally binding. The issue of packaging and the environment was not taken up by the central government for a long time. Once the issue came on the agenda in the mid 1980s, the Conservative government believed that

market forces were sufficient in promoting savings in energy and raw materials and reduction in waste (Haigh 1990: 167). Industry, however, had no strong incentive to recycle materials. In 1990, landfill costs made up some 10% of those in Germany. Recycling of packaging waste, such as glass bottles, remained in the sphere of local government and charities (Gandy 1994: 44-47). Similarly to the Netherlands, however, the general public increasingly objected to what they perceived as unnecessary packaging, and environmental groups started campaigns against one-way packaging. It can be thanked to the Environment Secretary of the state, Christopher Patten, - who was the first of his kind who "*showed a genuine interest in issues of environmental protection and pollution*"- (Weale et al 1996: 265) that packaging waste forms part of the national environmental policy. The message to industry, formulated in the 1990 White Paper on the Environment, was to reduce unnecessary packaging and the government announced that it would discuss with industry and retailers proposals for targets and measures to reduce packaging. The challenge to industry was accompanied by a threat: "*While the government intends to proceed by voluntary means, it will, if necessary, consider the introduction of regulatory measures, such as deposit schemes, and will review measures applied in other countries*" (HMG 1990: 189). As a reaction to the White Paper announcement and many identical statements by the government, industry came up with three initiatives. All of them can be characterised as window dressing.

The Consortium of the Packaging Chain (COPAC) - made up of six trade associations representing mainly the manufacturers of packaging - announced that it would divert 50% of all packaging waste from landfill. It also said that it was prepared to take responsibility for the recovery of used packaging which had already been collected and appropriately sorted (Haigh and Mullard 1993, D7). This plan was, however, conditional to actions of other actors, in particular to the government. The plan also underestimated the real costs to meet the targets (Interview British industrialist 1996) and said nothing about the distribution of these costs. An British industrialist who did not participate with COPAC stated: "*A voluntary organisation, COPAC, took a voluntary look at how they thought recovery and recycling would develop in the UK. They put some numbers in it. There were no stimuli in there, other than those identified as natural market sources*" (Interview British industrialist 1996).

In the same year, the Packaging Standards Council was set up to handle complaints on excessive and unsafe packaging. It was an initiative of the Industry Council for Packaging and the Environment (INCPEN) (see for an overview Haigh and Mullard 1993). The Council developed a one-page code of practise for the packaging of consumer goods. However, "*the one-page code certainly cannot be said to be draconian*" (ENDS 203, June 1992: 13), and the Council has always been a small organisation, not very well resourced and relatively unknown to the general public.

The third initiative stemmed from the British Retail Consortium (BRC), the retailers trade association. The BRC issued notes to "*offer guidance to retailers and their suppliers in determining their own company policies on packaging with the aim of achieving the optimum balance between best*

environmental practice and these vital functions” (safety of consumers, M.H.)(BRC 1993: 1). The guidelines were more concrete than the code of practise initiated by INCPEN. They provided some ideas about voluntary action, but no concrete commitments had been announced.

3. The European Directive on Packaging and Packaging Waste

The three countries analysed above show the diversity of national modes of governance concerning the problem of packaging waste. Diversity in a field which is closely related to the free movement of goods, potentially threatens the proper function of the Internal Market. Unanticipated consequences of the German packaging ordinance particularly caused a stir in other member-states. The German collection and recycling system was financed by companies via a licence fee (symbol: green dot). It was known that most of the German retailers privileged “green dot” products vis-à-vis other products. Foreign companies argued that the “green dot” established a technical barrier to trade. Foreign manufacturers had to comply with an additional measure before being able to sell their products in Germany (Simonsson 1995: 14). As a consequence, some member-states, like the UK, and lobbyists from industry expressed their concern to the Commission about trade effects of the German regulation.

As already stated above, the far-reaching approaches of Germany and other countries were enabled by the ECJ ruling in the famous Danish Bottle case. A Danish ban on beverage cans was justified for reasons of environmental protection despite its adverse effects on the internal market. This judgement “*effectively shelters national environmental measures in areas that are not subject to European harmonisation legislation against the threat of Court-driven regulation*” (Gehring 1996: 16). The developments in countries like Germany forced the Commission to counteract the restrictive effect of the judgement on the control of nationally adopted packaging waste policies. The Commission, however, did not file a formal infringement procedure against Germany. Rather, it chose an active agency role and the way of positive integration. The Commission saw the chance to revitalise its own efforts to develop a European packaging waste policy and launched an initiative for a packaging directive (Gehring 1996). The first draft had been developed by GD ~~Environment~~ (Environment) and was very much informed by the Dutch and the German approach⁴. The draft obliged member-states to ensure that within five years at least 90% of packaging waste had to be collected, 60% of each material had to be recycled and another 30% incinerated with energy recovery. According to Commission figures, this amounted to a threefold increase in the share of recycled packaging (Gehring 1996: 18).

⁴ These similarities were no coincidences. The first draft was written by a Dutch and a Belgian civil servant. The Dutch civil servant was delegated from the Dutch Ministry of the Environment (VROM) (VROM.INT). Since he was familiar with the Dutch packaging covenant, this approach has, to a certain extent, served as a model for the first draft of the European Directive .

Given the potential threat of packaging waste regulations for the free market of goods, and given TEU art. 100a (internal market article) as the legal basis of the directive, one could expect far-reaching harmonisation, resulting in strong convergence of national modes of governance in the field of environmental policy. The packaging directive, however, left enough discretionary space for member-states to pursue their own policies. How can this be explained?⁵

While the Commission's approach was very much in line with the German and the Dutch concept, it was heavily criticised by the United Kingdom, most of the other member-states and large parts of European industry. In line with the British traditional mode of governance, the UK wanted a more flexible approach including a single target for diverting packaging waste from landfill, which would enable member-states to decide how much of each material should be collected, recycled and incinerated. The UK had the majority of member-states on its side. They succeeded to water down the mandatory minimum targets (50% recovery [material recycling or incineration with energy recovery] and 25% overall material recycling, while at least 15% of each material). Besides member-states' interests, the weakening of the targets was also the consequence of the perceived failings of the German packaging ordinance to build up sufficient recycling capacities (ENDS Report Dec. 93). The negative lessons drawn from the German policy also contributed to the fact that maximum quota for recovery (65 %) and recycling (45%) were introduced. Due to the "success" of the German system, much more used packaging was collected than initially expected. As a consequence, used plastic and paper/cardboard packaging from Germany had increasingly been exported. Since these exports were subsidised by the "green dot", this waste material was much cheaper than the collected packaging waste in other member-states, even when transport costs were taken into account (ENDS Report Oct. 1993: 214; Nov. 1993: 13). Recycling companies opted for the cheap German sorted waste, and, as a consequence, the emerging collection and sorting infrastructure of some member-states, in particular in Britain, was threatened. Still, Germany, Denmark and the Netherlands successfully asked for an exemption which allowed to exceed the maximum recycling quotas if a member-state had sufficiently high capacity to process collected material. Moreover, these countries succeeded in including provisions that allowed them to stimulate the prevention and re-use of packaging (Gehring 1996: 22). Thus, as far as policy targets and instruments are concerned, the member-states still have considerable discretionary space. This also holds true for the organisation of waste management. The directive states that member-states shall take the necessary measures to attain the recovery and recycling target, and, to ensure that return, collection and recovery systems are set up. Economic operators and competent public authorities shall also play part.

Member-states were able to minimise the European induced adaptation pressure on their national modes of governance. The majority of member-states formally had the opportunity to reject the exemptions asked by Germany, the Netherlands and the UK, which would have induced more pressure on convergence,

Denmark

⁵ See for detailed analyses of the European Packaging Directive Gehring 1996, Golub 1996, Porter 1995.

but *"this is not how it works"* (Interview British Department of the Environment, DoE, 1996). In Brussels there is a procedural consensus between the delegates of member-states. Certain courses of action are out of question, not only because of formal rules but also as a consequence of the procedural consensus between participants. The range of what is allowed by this consensus is narrowed. Kerremans argues that this is reinforced by what is called the effect of coaptation in EU decision making. *"When the same actors participate successively to different processes, it becomes rational to take into consideration not only the possible effects of choices on each process on its own, but also the possible consequences of these outcomes on future processes"* (Kerremans 1996: 233). In addition to this rational choice argument, the structural embeddedness of the member-states has to be taken into account. The member-states depend on each other to reach decisions, to conduct policies (Kerremans 1996: 233). The main consequence is that there are neither distinct losers nor winners. Instead, all the participants are 'sharers'; all of them gain advantages and all of them have to concede.

4. Is there a Transformation of National Modes of Governance ?

The European packaging directive is an example for minimum harmonisation. It left ample room of manoeuvre for the member-states. But does it have any impact on national modes of governance? Yes it does.

The packaging directive had to be transposed into national law by 30 June 1996. Presently, one year later, none of the member-states has its regulation enacted. My analysis will show that transposition of law is not a mechanical bureaucratic process but a policy formulation process in its own right. In this case of minimum harmonisation, the discretionary space of member-states remains large, leaving room for political actors to play the packaging game again. Though the national packaging policies to implement the European directive are not enacted yet, mature drafts already exist and the basic elements are not about to be changed (for an overview showing a mixed picture of convergence and persisting diversity, see table 2).

An important feature is, that all national governance schemes are now based on public law while allowing for self co-ordination within this hierarchical setting. Given the predominant voluntary approach in the Netherlands, and the pre-deliction for self-regulation in the UK one has to ask why and how this convergence took place. The main reason for the convergence lies in the institutional adaptation to the legal requirements for the transposition of European directives. Thus, the most important factor to explain the choice of for a general binding legal framework is an institutional one: European law as it is interpreted by the European Court of Justice.

The packaging directive had to be implemented by law, regulations and administrative provisions. In principle, member-states are free to choose their own legal means and the form in which to implement a directive (TEU art. 189). Notwithstanding this, member-states must consider basic legal requirements such

as, clarity, legal security and legal protection of third parties (Jans 1994: 133) when implementing directives. Therefore, most directives are implemented by means of formal law. Next, member-states are held liable if the desired result is not achieved (Sewandono 1993: 83). According to ECJ case law, directives have to come to full effect. This implies certain obligations for member-states to make the directive enforceable. The ECJ has shown that it accepts very little by way of defence if a directive is not properly implemented. The member-state concerned cannot evade its responsibility by blaming private actors or decentralised governmental institutions. This may make state agencies more cautious in choosing other implementation instruments than command and control measures based on public law (Steyger 1993).

The institutional rules narrow down the choice of member-states remarkably. In the case of the Dutch covenant scheme and the British self-regulatory approach, governments chose public-law based governance schemes. The transformation of governance in those two countries, however, was far from being easy, as a more detailed look into the processes reveals.

4.1 The Netherlands: How the Directive Attacked the Dutch Consensual Approach

The European directive had two major consequences for the Dutch packaging policy. The first was that the Netherlands had to introduce regulations which formally bound individual companies. The second was that the Ministry of Economic Affairs assumed a more central role in the Dutch packaging policy community. Both aspects distorted the established and institutionalised system of interest intermediation concentrated around the Ministry of the Environment (VROM) and the SVM. The pluralisation of interests increased the level of political conflict, and, is partly the reason for the delay in transposition.

Domestic procedural rules for transposing EU directives into national law gave other Ministries (besides the Environment Department) more power, most notably the Ministry of Economic Affairs (EZ). The transposition process resulted in a lengthy interministerial negotiation process, which very much reflects the European discussion about the relative importance of the environmental protection goal vis-à-vis the harmonisation objective. VROM tried to exploit the national discretionary space as much as possible in order to achieve a high level of environmental protection (Interview VROM 1995). The first draft of the new regulation aimed at making the ambitious recycling goals, already stated in the 1991 covenant (60%), generally legally binding. The approach of EZ was less oriented by environmental protection goals of the directive than by harmonisation goals. It blocked the proposal of VROM, because this would have exceeded the maximum quota of 45% stated in the directive. EZ wanted a '1 to 1' translation of the directive into national regulation in order to avoid market distortions. Finally, the Departments agreed on including the maximum recycling and recovery quota in the new regulation (see table 2) and to include any more far-reaching measures in a new covenant. It is worth noting that apart from plastic packaging waste, all maximum targets set out in the directive were already met in 1994.

The Dutch regulation contains a take-back and recycle requirement of products on behalf of the producers and importers (VROM 1996). They are legally obliged to meet the recovery and recycling targets of the regulation, individually. The responsibilities of retailers and raw material producers is to support the producers/importers by meeting the targets. Consumers are responsible for the sorting of waste. Local authorities remain responsible for the separate collection of paper/cardboard and glass. Companies are offered an alternative to the individual obligations. Those who would join a collective covenant scheme could be exempted.

The regulation trashed out by the government formed the basis for the negotiation with industry about a collective scheme. The announcement in the draft regulation to negotiate a new covenant with industry was embraced by large parts of industry. The alternative - individual legal obligations - caused some agitation. For many companies the concept of the new packaging regulation came as a surprise. Five years ago, the SVM has agreed with the government on a covenant. And now, due to the directive from Brussels, the consensual solution that worked effectively, has to be replaced by detailed regulations and enforceable duties for producers and importers. The planned individual obligations have been strongly criticised as being too bureaucratic and too expensive (NRC 31.1.96). The traditional consensus-based Dutch mode of governance was threatened by the impositional character of the EU directive. Moreover, the institutionalised Dutch system of packaging interest intermediation with the Foundation of Packaging and the Environment as 'the spider in the web', had been attacked. Over the last twenty years, the SVM had successfully performed the double function required in a corporatist arrangement. On the one hand, the SVM represented the interests of the packaging chain concerning the issues of packaging and the environment vis-à-vis the government and the public. On the other hand, when agreements were made, the SVM was responsible for the implementation by its affiliates. It mobilised branch associations and individual firms to assist in implementation (Peterse 1992: 204). In the course of the implementation of the European directive, the SVM had to be replaced by a more complex system, since, due to the directive, all companies of the packaging chain were affected. Industry formed the packaging platform for negotiating a new covenant. This platform consists of the SVM, the association of small and medium sized industries (MKB), the peak associations of Dutch employer organisations (VNO-NCW) and packaging material trade associations. The forced change in the policy network caused problems. Whereas the SVM represented the more active part of the packaging chain, now the whole industry was represented. Since most of the SVM members are also member of one of the other peak trade associations, the role of the SVM becomes unclear. VROM discussed the content of a new covenant with the platform. The Ministry made clear that it wanted a higher recycling target in the covenant than stated in the regulation. As a compensation, the administrative burden for members of a covenant would be smaller and the flexibility higher than in the case of an individual obligation. Both sides were interested in continuing the covenant approach. Even though the negotiations are still ongoing (April 1997), some general features are already clear (VROM 1997). The government and the packaging platform agreed on a recycling

objective (65%) that is 20 points more than the maximum quota set out in the directive. As already stated above, the Netherlands is allowed to exceed the maximum quota, when it can prove that it has enough reprocessing capacities. The plastic recycling target, which is still under negotiation, will probably be 35%. Whether a quantified prevention target or a general prevention principle should be included in the covenant was also not decided upon as the paper was written.

To summarize: The directive threatened the Dutch consensus approach. It strengthened the Ministry of Economic Affairs vis-à-vis the Department of the Environment. But, this was more than outweighed to a stronger role of the Environment Minister vis-à-vis the packaging chain. The traditional Dutch approach to conclude covenants was complemented by individual obligations for those who resisted to join the collective scheme.

4.2 United Kingdom: Anarchy in the UK

As in the case of many other environmental directives, the impact on domestic governance was quite significant. There were several reasons for this. The collection, sorting and recycling infrastructure was in an embryonic stadium. Even the relatively modest minimum targets set out in the directive were quite demanding for the UK. Other more important features are related to differences in the national mode of governance prevalent in the UK, and the mode of governance required (or being at least more appropriate) by the directive:

The European packaging directive influenced domestic policymaking in Britain even before the formal adoption of the directive in December 1994. There were two reasons for this: First, the government wanted to anticipate the impact of the directive on British policy strategy and industry behaviour and secondly, and probably more important, the British government wanted to present to the European Council a practical alternative to the Commission's approach to packaging waste and the legalistic approaches developed by some other member-states (e.g. Germany, Denmark). As a British industrialist said: *"If you want to join in the debate to talk about football tactics, then you better play a bit of football, because otherwise people will say - look go and talk about cricket"* (Interview British industrialist 1996). The government felt that the modest approach presented by the British trade associations would not be enough to be regarded as an alternative. The British case made clear that EU policymaking and national implementation are not sequential and empirically separated processes, but take place in parallel.

The process started in July 1993, a few months before the European Council had to adopt a common opinion on the directive. The British government told industry to come up with a waste recovery and recycling plan by Christmas. Gummer, Secretary of State of the Environment, invited representatives of 27 leading companies and challenged them to develop a plan with the view to recovery between 50-75% of the overall packaging waste by the year 2000, to establish an effective organisation, spanning all the relevant

business sectors. This step made clear that he was not satisfied with the self-regulatory measures proposed by the trade associations (ENDS Report Sept. 1993, : 16).

What followed was a cumbersome and sometimes chaotic process, that took much longer than expected, and resulted in a fragile consensus between government and the majority of industry on the lowest possible level⁶. The traditional mode of governance, namely bilateral interest intermediation between government and companies, and the predilection for self-regulation and tailor-made solutions for companies clashed with the demands of the packaging directive.

Interest intermediation

An effective and efficient organisation of collection and recycling infrastructure depends on a co-ordinated approach of the different sectors of the packaging chain. This requires cross-company and even cross-sectional interest aggregation and a co-operative attitude of business. Regarding both aspects, Britain is not particularly strong as this case shows:

The companies invited by Gummer established an ad hoc group called Producer Responsibility Industry Group (PRG) to develop a business plan. But the PRG was unable to meet the deadline set by Gummer. A draft business plan was presented in February 1993 and in December 1993, and after a period of consultation and revision, the final report was published. The plan stipulated an increased rate of recovery of packaging waste to 58% by the year 2000 (50% material recycling, 8% incineration with energy recovery). The plan, however, was short of concrete commitments to meet the targets. PRG was accused of underestimating the costs and the financing question remained unresolved. The main problem of the PRG group was that it did not represent all parts of the packaging chain equally. The companies who were on Gummer's invitation list were chosen in an ad-hoc manner (Interview DoE 1996). The packaging manufacturers were underrepresented. No producers of tinplate, aluminium or glass packaging sat round the table.

After having submitted their plan, the PRG disappeared and made place for a new organisation, the VALPAK - Working Responsibility Advisory Group (V-WRAG). Both the PRG and the government believed that a broader organisation was needed, including all parts of the packaging chain. V-WRAG, the new group, consisted of representatives from some 50 companies, including packaging material interests. V-WRAG had the main task of distributing the costs associated with the future industry organisation,

⁶ An industrialist said: *"The even-handedness of some people involved in this exercise was questionable, and in the end there were changes in staff, and the tension to become so great that the whole process became extremely close to breaking up... and it has to be said that there were probably a limited number of companies who were trying to make the process go nowhere, who believed that their business should have nothing to do with the plans. There was a destructive element in the process, leading to forms of behaviour which are not acceptable, like, providing untrue information to the press. People also agreed to certain things and then ignored what they had agreed to. I mean, it became a very unpleasant environment. It was a dreadful process"* (Interview British industrialist 1996).

provisionally called VALPAK. In the meantime, the European packaging directive had been adopted. V-WRAG was challenged to set up a collection, recovery and recycling system that could meet the European recovery (between 50-65%) and recycling (between 25-45%) targets. Both industry within and outside V-WRAG was deeply split about the question of where a levy had to be raised.

The perspective of a representative from a large packing and filling company summarised their main difficulty with the policy process at this stage as follows: "*Each of these proposals was a very narrow sector proposal. It didn't start by saying 'What is the best approach for the UK as a whole?'; i.e. how will we share the pain? Instead, it was 'What is the best approach for my business sector, regardless of anyone else?'. You had all this nonsense of people going to extraordinary lengths to argue why they had nothing to do with it'*" (Interview British industrialist 1996).

V-WRAG was unable to present a financing option that had a broad majority across the packaging chain. Therefore, Gummer asked an independent senior businessman to broker a deal. On 15 December 1995 Gummer met with representatives of 32 leading companies, some of them the most senior figures in British Industry. The V-WRAG management was not invited. The group thrashed out a sort of compromise, at least for the first two years (Material Recycling Week 12 April 1996: 14). After this compromise, Gummer appointed a new group, the Packaging Advisory Committee (PAC), to help him draft the regulations needed to implement the European packaging directive. This group was made up of eight senior officials of leading companies representing all parts of the packaging chain. The problems to come to a business plan and a financing scheme reveal how the traditional British system of interest intermediation did not match the need to come to a co-ordinate approach. The traditional mode of interest intermediation can be related to the British industrial culture. Dyson drew a distinction between industrial cultures which stress a "private" concept of the autonomy of action and self-sufficiency of the firm (as in Britain) and those which emphasise a "public" conception of the firm seen as intermeshed within a network of institutional interests based on the acceptance of the central role of the state (Dyson 1983). And Judge argues that industrial development in Britain occurred within a context of ideas and social and political relations which all stressed the separation of enterprise from the government. "*British success was ... believed to emanate from individual initiative, the self-sufficiency of the firm and resolute leadership of individual entrepreneurs*" (1990, pp.3-4).

As a result, the United Kingdom can be labelled as a company state, which means that "*the most important form of business-state contact is the direct one between company and government. Government prioritises such forms of contact over associative intermediation*" (Grant 1993: 14). Government has to rely on individual companies, because trade associations are unable to engage in corporatist agreements. To quote an industrialist who then was deputy chairman of the trade association INCPEN: "*Trade associations are servants of their sector, usually held together to defend specific interests and specific issues. It is very difficult for trade associations to turn round and tell constituting companies that they have to do something, that they not particularly want to do. Trade associations themselves tend to be providing a resource and a*

fund on behalf of the companies to look after their interests. Not to perhaps promote political activities in a voluntary environment". (Interview British industrialist 1996).

Regulatory style

The European-induced transformation of governance was not only aggravated by the traditional domestic pattern of interest intermediation, but also by the British regulatory style. In line with the overall conservative approach of a minimised role of the state in society, a voluntary approach was to be developed as an alternative to the Commission's approach. An scheme runned by industry that put the least possible costs and administrative burden on the business sector while having broad support among companies. The UK government repeatedly threatened to take unilateral action against industry, if industry were not able to come up with a business plan. A threat, however, is only effective when it is credible. But the threat was not believed by industry (Interview British industrialist 1996). The weakness of the threat was admitted by an official at the Department of Trade and Industry. *"I think government is generally unwilling to introduce new legislation. And there are also political reasons for that. There is the general political trend, which is again extra regulations, extra bureaucracy... (Interview British Department of Trade and Industry, DTI, 1996).* And the ENDS Report wrote *"A purely voluntary approach has minimised government work and, perhaps more importantly, absolved it of any responsibility if the plan failed (ENDS Report Sept. 1994: 13).* It even reached the point that the PRG group asked for regulation arguing that *"the plan can only move ahead with a commitment by government to provide the legislative backing to enforce compliance by all members of the packaging chain" (PRG 1994: 5).* A paradoxical situation emerged when industry asked: *"Regulate us, please!"* with the government being reluctant to accept this. It took another half year and repeated pressure by the PRG group before government accepted that regulation was needed (ENDS Report Sept. 1994).

Another problem concerning the Europeanisation of the packaging waste issue had directly to do with the transposition of the directive into national law. The EU directive set out quantified quotas to be achieved. British government traditionally resist setting national and quantified targets because it argues that those targets are seldom based on sound scientific evidence. *"Facts" not "fantasy" (HMG 1990) matters.* Environmental regulation has always been broad, and targets were set for each company individually in negotiation between agency and the company concerned (Vogel 1986). Hayward has characterised the British policy style in terms of an absence of explicit and medium- or long term objectives on the one hand, and unplanned, and incremental decision making in which policies are arrived at by a continuous process of mutual adjustment on the other (Hayward 1974). This incrementalistic style can be traced back to the British tradition of common law (Van Waarden 1995: 348).

In September 1995, V-WRAG and several trade associations developed a shared producer responsibility approach. V-WRAG claimed that it is built on the common ground between the four sectors of

the industry (V-WRAG information sheet 13.6.95). This industry plan, however, was based on a traditional British environmental policy style. Within a broad regulatory framework: Individual companies had to individually negotiate their recovery and recycling responsibilities with the Environment Agency. The government, however, was not prepared to accept industries' compromise, even though it appreciated the industries agreement. DoE argued that *"It would not be acceptable to leave this target (which could apply to 350,000 businesses...) to the discretion of the businesses or to be settled in negotiation (i.e. on a case-by-case basis) with the Environment Agency. To be enforceable and legally effective as a means of implementing the EC directive, the relevant targets must be included in national legislation"* (DoE 1995). Government insisted that the plan should be modified to split the legal and financial responsibility for meeting the European targets across the sectors of the packaging chain (FT 24.11.1995). In other words, the government was anxious to meet the requirements of the directives. *"We made amendments, because the plan did not give the guarantee that the targets will be met. They are not subject to infringement procedures, we have to be sure that the targets will be met* (Interview DoE 1996).

V-WRAG was very disappointed about the government's reaction and said that they would resist any imposition of arbitrary government targets for recovery or recycling of packaging waste. (V-WRAG information sheet 30 August 1996). The European regulatory style to set obligatory and quantified targets, that member-states are obliged to meet, clashed with the British style of bilateral negotiation between individual companies and implementation agencies within the broad legal framework. This clash of administrative styles had a negative impact on intra-industry relations and government-industry relations.

Distribution of responsibilities

After three years of "gruelling" (FT 19.6.96) negotiations with industry, government presented its approach to implement the European directive to the public. In contrast to the 58% recovery target, initially promised by the PRG group, the final output of the negotiation was the lowest recovery and recycling target allowed for in the directive (see table 2). Each company has an individual legal obligation to contribute to the 50% recovery and 15% recycling of each of the material they use. The distribution of responsibilities across the packaging chain are as follows: Raw material suppliers 6%, Manufacturers of packaging 11%, Packers/Fillers 36% and Retailers 47%.⁷ Similar to Germany and the Netherlands, individual companies can join a collective system. The legal obligation will then rest with the collective scheme rather than the individual businesses as long as the appropriate recycling and recovery levels are achieved⁸ (DoE 1996a).

⁷ That means for example that a packer/filler has to prove that he took responsibility for 36% of the 50% recovery target and the 15% recycling target, for the packaging he used.

⁸ It is unlikely that the UK will meet the minimum targets of the Directive for several reasons. Firstly, since waste incineration capacity is lacking, most of the recovery has to be done by recycling (about 42%), even though the official recycling target is much lower (25%). Secondly, companies already complain that the (modest) interim targets cannot be met. Thirdly, Gummer is to delay the date for companies to register with

4.3 Germany: Business as Usual

After six years of intensive debate about the unintended consequences of the German Packaging Ordinance, and two years after the adoption of the European directive which aims to harmonise national packaging waste policies, the German approach adopted in 1991 seems to remain unchanged. Germany still has one of the most ambitious and strictest packaging waste regimes in the world. Take-back and recycling responsibilities for the packaging chain remain intact as well as quotas for refillables and threats of mandatory targets. The DSD has survived, though it has been criticised for a) becoming almost bankrupt, b) too costly, c) not environmentally sound and d) monopolistic. Even though environmentalists, domestic and foreign companies, sub-national actors and political parties object to the German approach, the amended Packaging Ordinance, which will be adopted in the near future, will only bring about incremental changes⁹ (BMU 1996).

The main reason for the persistence of the German mode of governance is, that the German legalistic approach matches the requirements of transposing EU directives into national law. Another reason is provided by path dependency. Industry invested approximately DM 7 Billion in establishing the appropriate collection, sorting and recycling infrastructure, with running costs amounting to DM 4 Billion, annually. Vested interests emerged. Most notably the DSD, the "administrative beast" (Interview British industrialist 1996) itself, has the institutional interest to survive. In addition, waste management industry benefits and is even represented in the managing committee of the DSD. Germany is probably the only country with a dual system (separate dustbin for packaging waste). Pilot projects in the Netherlands and the United Kingdom have shown that a dual system is inefficient and not necessary to achieve high collection targets. These two countries learned from the negative experiences in Germany and draw their lessons from their own projects. They left the responsibility for collection of waste with the local authorities. Germany has to follow its path, any change would result in massive capital loss.

The German mode of governance only changed incrementally. And this transformation was only partly induced by European integration. Recycling targets are slightly modified and more time is given to achieve them. As far as plastic is concerned, at least 40% of the 60% recycling quota (i.e. 24%) have to be recovered by material recycling. The rest can be recovered by other techniques such as hydrolysis and pyrolysis (chemical recycling) or incineration with energy recovery (thermal recycling). This is done "to allow for a sufficient increase in recycling capacity", according to a press release of the German Ministry of the Environment. These modifications can, therefore, be interpreted as a reaction to complaints of other member-

the Environment Agency (EU Packaging and Waste Law January 1997). Finally, the VALPAK collective scheme had only 70 members in September 1996, notably not including some of the large retailers.

⁹ The first draft for an amended ordinance has already been published in Sept 1993. It was not effected by European developments, but was meant to cope with unintended consequences of the German packaging ordinance, to be more concrete, to stabilize the DSD.

states and thus as conceding to European integration. But there are also domestic factors involved: pressure from industry, technological developments and policy oriented learning. The 64% target of the 1991 Ordinance was very ambitious, given the actual recycling rates in these times (1%). Most of industry strongly opposed the recycling targets, arguing that establishing a sorting and recycling infrastructure would be very expensive and that there were no markets for the recycled material. In addition, life-cycle assessment shows that packaging waste recycling is not always more environmentally friendly than other options, such as incineration with energy recovery and new technologies, such as hydrolysis and pyrolysis.

The amended Ordinance also aims to prevent free-riding behaviour (some companies refused to join the DSD and claimed that they had established their own take-back and recycling systems). The new Ordinance states that manufacturers and distributors which do not want to participate in a collective scheme (e.g. DSD) have to prove that they fulfil their take-back and recycling obligations. This change matches the EU requirements to make directives enforceable, but is primarily a reaction to strong criticism of (German) companies who participate in the scheme. The annual loss caused by free riders is estimated at DM 600-800 million (approximately 20% of the annual running costs of the scheme).

5. Summary and Conclusion

In the late 1980s, early 1990s member-states differed in their national modes of governing the problem of packaging waste. The German "Verpackungsverordnung", based on public law, imposed quite ambitious recycling targets and a strict timetable on industry. Moreover, it introduced the take-back requirements for used packaging by the retailers. Private industry was forced to set up its own collection and recycling system (DSD), in order to avoid this requirement. Rigid sanctions could be adopted if the DSD would fail. In the Netherlands, the government and large parts of the private sector agreed on a bundle of measures in order to meet a waste prevention target and fairly high recycling targets. The negotiated agreement was binding under private law. The United Kingdom favoured a strictly voluntary and market-led approach. The government merely set modest recycling targets which were not legally binding. Industry developed a business plan and codes of practice which can be labelled as window dressing.

After six years and the introduction of the European packaging directive one can observe a mixed picture of convergence and persisting diversity of national modes of governance. With regard to the level of environmental protection, diversity continues to persist. There was neither a race to the top nor a race to the bottom. The institutional logic of EU policymaking prevents the majority of member-states from rejecting the call for exemptions (i.e. higher targets) of the "greener" minority. Diversity also continues to exist where the allocation of roles in waste management is concerned. The Netherlands and the UK drew their lessons from own pilot projects and perceived failings of the German DSD. They decided that local authorities should still

play an important role in the collecting of packaging waste. Due to path dependency i.e. sunk costs, Germany has to continue its private organised collection system, despite heavy criticism. A convergence took place concerning the legal base of the national governance schemes. Due to adaptation to legal requirements concerning the transposition of directives into national law developed by the ECJ, the Netherlands and the UK followed the example of Germany. Both countries introduced regulation based on public law, while allowing for self-co-ordination of private actors within this legal framework. This transformation of governance was a cumbersome process in the case of the Netherlands and a dreadful process in the case of the UK: the legal requirements did not fit with the mode of environmental governance developed in the two countries.

Although, the legal requirement to pose enforceable obligations on companies clashed with these traditions, it also strengthened the state vis-à-vis economic interest groups. In the case of the Netherlands, the Ministry of the Environment welcomed a more legalistic approach to tackle the increasing problem of free-riding, while continuing with the covenant approach on a higher regulatory level. The UK government welcomed the need to set uniform quantified targets (in percentages) for each company. It prevents the Environment Agency from negotiating individual obligations for several hundreds of thousands of companies. Moreover, in the case of the UK, adaptation pressure induced by the EU packaging directive matched and reinforced domestic developments in environmental policy from an informal negotiation state to a transparent regulation state (Knill 1995: 14). The 1996 government paper "*A Waste Strategy for England and Wales*" shows that Britain is prepared to announce national quantitative targets and clear hierarchies of waste management options, also in areas not subjected to European integration (DoE 1996b). There is a case of lesson drawing from the issue of packaging waste. As a civil servant of the DoE said: "*The British approach has always been the best practical environmental option for each individual case. And, in practise, for most industry the best practical environmental option was landfill. The hierarchy is meant to set out what the priorities are...Some targets are needed to change the attitude of a slow changing industry. Three years ago, we had another attitude*". (Interview DoE 1996).

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[ENDS Report] Environmental Network Data Service, London

[FT] Financial Times

NRC, Dutch daily

V-WRAG information sheets

Table 1: National modes of governance prior to the European packaging directive

Country	Germany Packaging ordinance 1991	The Netherlands Packaging covenant 1991	United Kingdom White Book, 1990 & Codes of Practice 1992
Dimension			
degree of legal codification	high (ordinance based on public law)	medium (covenant: voluntary agreement binding under private law)	low (codes of practices)
instrument	take-back and recycling responsibilities for retailers and mandatory deposits; exemption: joining a collective collection and recycling scheme (i.e. DSD)	large parts of industry agreed on a bundle of measures to meet prevention and recycling targets	announcements of trade associations for voluntary action
allocation of responsibilities in waste management	private (DSD)	public-private mix collection: public sorting: public/private recycling: private	public/private pilot schemes
prevention target	no	stabilisation of amount of packaging in year 2000 on the level of 1986	no
re-use target	maintenance of share of drinks sold in refillable (72%)	no	no
recycling targets (deadlines)	64/72% (1.7.1995) depending on material	40% (1996) 60% (2000)	25% (2000) general target household waste
potential sanctions to secure compliance (credibility of sanctions)	strong, threat by ^e Landfer to introduce take-back and mandatory deposit schemes (medium)	medium, arbitrage (low)	no
mode of interest intermediation	corporatist, peak trade associations	corporatist, single issue cross sectional foundation	pluralist
degree of pressure exerted by government on industry	high	medium	absent
packaging waste per capita (1989) ¹⁰	125 kg	156 kg	134 kg
recycling performance prior to policies			
1. glass (1991) ¹¹	1. 63%	1. 70%	1. 21%
2. paper/cardboard (1987) ¹²	2. 41%	2. 53%	2. 30%
3. aluminium (1987) ¹³	3. 31%	3. 47%	3. 19%
policy effectiveness (1995)	high: all targets met, decrease in amount of packaging	medium: almost all targets met, decrease in amount of packaging	no: only slightly increasing recycling figures, increase in amount of packaging

¹⁰ Economist Nov. 30, 1991

¹¹ OECD Environmental Data 1995

¹² Economist Nov. 30, 1991

¹³ Golub 1996

Table 2 Transformation of national modes of governance (Spring 1997)

Country	Germany Amended packaging ordinance (draft) 1996	The Netherlands Regulation (draft) 1996 Packaging Covenant II (draft) 1997	United Kingdom Regulation (draft) 1996
Dimension			
degree of legal codification --> convergence towards a high degree of legal codification	high (public law)	high (public law)	high (public law)
instrument --> convergence towards self-regulation within a hierarchical setting	Individual take back and recycling obligations for retailers, mandatory deposit schemes or collective exemption scheme	Individual recovery and recycling obligations for producers/importers, or collective exemption scheme (covenant 2)	Individual responsibilities for recovery and recycling, shared by all four sectors of the packaging chain, collective scheme (VALPAK)
allocation of responsibilities in waste management --> persistent diversity	private	public-private mix collection: public sorting: public-private recovery/recycling: private	public-private mix collection: public sorting: public-private recovery/recycling: private
prevention targets	no	probably	no
re-use targets	maintenance share of drinks sold in refillable	regulation: no covenant: maintenance of share of drinks sold in refillables	no
recovery targets (recycling&waste incineration with energy recovery) (EU directive: between 50 and 65%)	65% (1998)	65% (1998)	50% (2001)
recycling targets (EU directive: between 25% and 45%) targets: --> persistent diversity	general: 45% (1998) glass 75%, tin plate 70%, alu 60%, paper/cardboard 70%, composites 60%, plastic 24% (1998)	regulation: 45% (1998) covenant: 65% (1998)	regulation 25% (2001)
potential sanctions to secure compliance (credibility of sanctions) --> convergence towards provisions including sanctions, credibility of sanctions slightly increase	strong, provision enables Laender to introduce take-back requirements and mandatory deposit schemes (medium)	medium, provision to replace covenant scheme by individual obligations (medium/low)	medium, provision to pose fines (medium)
mode of interest intermediation --> convergence towards a more pluralised mode	still corporatist but pluralised	still corporatist but pluralised	pluralist
degree of pressure exerted by government on industry --> more pressure exerted by government on industry	high	medium/high	medium
probable policy effectiveness --> increased	high, targets will be met	high, targets will be met	increased, but unlikely that recovery target will be met