



Outlook for the Deposit Schemes in Germany

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Compulsory Deposit in Germany

- A new government but not a new policy on the “candeposit”
- Compulsory deposit on one-way drinks packaging
- Legal disputes at national courts after decisions of the ECJ December 14, 2004
- Consultations with the Commission
- Deutsche Pfandsystem GmbH
- Future effects of the Compulsory Deposit

Federal Environment Minister Sigmar Gabriel



A new government but not a new policy on the “candeposit

- The new government will not start an initiative to stop the Compulsory Deposit in Germany
- The new government sticks to the rules entered into force May 28, 2005 with the 3rd Amendment of the Packaging Ordinance

3rd Amendment of the Packaging Ordinance 1

- Simplified Deposit on one way packaging
- Implementation in two steps
- First step May 2005:
One standard deposit of €0,25 only for ecologically unfriendly one way containers from 0.1 – 3 litres for
 - Beer
 - Mineral Water
 - Carbonated Soft Drinks

3rd Amendment of the Packaging Ordinance 2

- No deposit for Juice, Milk and Wine
- No deposit for ecologically advantageous packaging such as drink cartons, polyethylene tubular bags and stand-up bags

3rd Amendment of the Packaging Ordinance 3

Second step May 1, 2006:

Standard deposit also for

- Non-Carbonated Soft Drinks
- Alcoholic Mixed Drinks (“Alcopops”)

“Isolated Solutions” will be discontinued

Legal disputes after decisions of the ECJ

C-463/01 and C-309/02

December 14, 2004

Proceedings Against the Federal Government

Proceedings Against the Collective Federal States

The courts have thrown out all cases to date!

Decisions of the ECJ

C-463/01 and C-309/02

December 14, 2004

- Compulsory Deposit is in principle compatible with EU law
- Compulsory Deposit can be a barrier to trade, but is justified for environmental reasons
- Sufficient transitional period is necessary
- Building up a returnsystem can be put on producers and retailers
- Sufficient number of points of return for one-way drinks packaging is necessary

Compulsory Deposit justified for environmental reasons

- Deposit improves return-quota
- Deposit improves quality of collected packaging
- Deposit improves recycling of packaging
- Deposit reduces littering
- Reusable drinks packaging reduces amounts of wastes

Effects of the ECJ decisions C-463/01 and C-309/02

- Compulsory Deposit in Germany is still in force
- No sales of imported one-way drinks packaging without a deposit
- Competent Authorities of the Länder are enforcing the deposit
- National Courts have ruled on the questions raised by the ECJ
 - Transitional period was in fact 9 month
 - Returnsystem is in place

National courts have ruled on the questions raised by the ECJ

- OVG Berlin Brandenburg April 21, 2005
- VG Stuttgart May 23, 2005
Appeal to VGH Baden-Württemberg
- OVG Berlin Brandenburg October 20, 2005
No appeal
- Civil Courts: KG Berlin April 15, 2005
LG Koblenz March 18, 2005

Only a few national courts still have to rule on the Compulsory Deposit

- For example:
 - VGH Hessen
 - OVG Baden-Württemberg
 - OVG Hamburg

 - LG Bonn (claim for damage)

Most of all legal complaints have already failed!

Consultations with the Commission

- Commission accepts compulsory deposit
- Commission demands sufficient number of points of return for one-way drinks packaging nationwide
- Com: “isolated solutions” have to be discontinued
- The national return-system has to be open to all national and international distributors without discrimination especially for importers
- The national return-system may not cause barriers of trade

National deposit and return system

- Decisions of the ECJ December 14, 2004:
Building up a returnsystem open to all national and international distributors can be put on producers and retailers
- Producers and retailers have founded the “Deutsche Pfandsystem GmbH” (DPG)
- German Federal Government expects the DPG-system to be operationable from May 1, 2006

Future effects of the Compulsory Deposit

- No Littering of one-way drinks packaging
- Very high return-quota of one-way drinks containers with a deposit
- Further expansion of one-way drinks packaging?



Thank you very much for your attention!

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