

Polycymakers Briefing



**Friends of
the Earth
Europe**

Creating a new waste policy: *Promoting sustainability through innovation and efficient use of resources*

May 2006

1. Executive Summary

Waste policy is a key part of improving Europe's sustainability, maximising our resource efficiency and minimising our impacts on the climate. More efficient use of resources in Europe will both help protect the environment, and leave more resources available for the rest of the world, particularly poorer countries.

In December 2005, the Commission proposed revisions to the Waste Framework Directive [1], and produced a Thematic Strategy on Waste Prevention and Recycling [2]. Unfortunately, in Friends of the Earth Europe's view, these proposals will take us backwards not forwards – creating a society that is much less resource efficient than it could be, with less recycling not more.

Europe's waste policy should aim at the long term goal of phasing out waste – ie, ensuring that waste is prevented as far as possible, and then that which remains is reused, recycled or composted.

Achieving this target will be challenging, and will require innovation from industry, but the new approaches created will be of global value in a world where resources are increasingly under pressure – and improved industrial efficiency will aid the competitiveness of European business.

In Friends of the Earth Europe's view, a number of important changes need to be made to the Commission's proposal, in particular:

- **The five step waste hierarchy must be clearly stated**, with clear differentiation between prevention, reuse, recycling, energy recovery and landfill.
- **An effective waste prevention process must be created**, including a clear definition, and a Commission-led process which will develop, and assist in implementing, targets for waste prevention, and residual waste reduction.
- **A continued commitment to further legislative measures on individual material streams (e.g. a biowaste directive) and continued use of product-based producer responsibility**, to oblige manufacturers to make their products reusable, recyclable or more durable.
- **A phase-out of the disposal, via incineration or landfill, of all waste that can be reused, recycled or composted.**
- **A requirement for incinerators to be as efficient as possible, but not for them to be redefined as recovery.** Any attempt to redefine incineration as recovery will drive waste down the hierarchy, reducing recycling which is

known to be the most resource-efficient, job creating and climate friendly approach. This redefinition would also make it easier to transport waste around Europe for incineration, which is not acceptable.

- **A change to the proposed process for defining when a waste has ceased to be a waste, so that it will only redefine products that meet a stringent set of criteria (e.g. good quality compost from food waste), where this is the best environmental option for the waste stream concerned.** Such decisions should not be taken in the undemocratic comitology process, as they are political not technical.

2. Introduction

On 21st December 2005, the European Commission published a “Thematic Strategy on Waste Prevention and Recycling” (TS) and a proposed revision of the Waste Framework Directive (WFD), the EU’s overarching waste policy framework.

Friends of the Earth Europe is very disappointed with both of these documents, as we consider that they will not, as they stand, contribute to making the European Union more sustainable – in fact, in many ways, they are taking things in the opposite direction.

Friends of the Earth Europe believes that resources policy should be based on a *precaution-based approach, building on existing knowledge, based on the scarcity of resources in Europe and globally; and building on equality among the different parts of the world*, as described in the concluding paragraphs of the recent European Environment Agency report,

“*Sustainable use and management of natural resources*”, see Box 1. We would also point out the importance of inter-generational equity – we should avoid creating problems for our children and their children.

In our view, waste policy has a key role in resources policy, through creating a massive improvement in the efficiency of our use of resources, through maximising prevention, reuse, recycling and composting. We believe that waste policy should focus first on prevention of waste in general, and then on prevention of residual waste (waste that can’t be reused, recycled or composted). Prevention of residual waste will involve an incremental process of examining this residual waste and examining what policy or other measures can be adopted in order to:

- (i) Prevent the production of this waste; or, if this is not possible,
- (ii) to make it reusable, recyclable or compostable.

Recycling not only saves resources such as metals, forests, oil etc – it also saves climate emissions, as recycling is generally more energy efficient than manufacturing from virgin materials. This conclusion is confirmed by a recent study done for the UK Government by the consultants ERM [5], and by a second UK study, carried out for the government-funded Waste and Resources Action Programme [6], which concluded that:

“UK recycling currently saves between 10-15 million tonnes of CO₂ equivalent greenhouse gases per year compared to other waste management options.”

Unfortunately this fact is often ignored when simplistic claims are made that burning waste will

Box 1: Resource efficiency as an answer to increasing global pressure on resources

The European Environment Agency report “*Sustainable use and management of natural resources*” [3] finishes with the following:

“Perhaps the most succinct summary of the open environmental issues relevant to the Thematic Strategy on resources was presented in the recent JRC-IPTS report on the environmental impact of the use of natural resources [see 4]. The report concludes that for effective policy development, scientific input to the resources strategy ‘... should be provided in close relation to parallel research and dialogue on:

- *a precaution-based approach to a resources strategy building on existing knowledge;*
- *an approach based on the scarcity of resources in Europe and globally;*
- *an approach building on equality among the different parts of the world;*
- *the requirements of different methods of linking the state of the environment to resource consumption (through materials, product groups, consumption areas, etc);*
- *the abatement strategies used in cases of resources where policies are already in place.’”*

reduce greenhouse emissions. For example, a recent study for Friends of the Earth Europe has shown that a waste to electricity incinerator actually releases 33% more fossil-fuel derived CO₂ per unit energy produced than a gas-fired power station [7].

This study also predicts that the situation will get worse in the future, with waste to electricity incinerators producing almost as much fossil-fuel derived CO₂ per unit energy as new or refitted coal fired power stations, due to a combination of more efficient coal-fired generation and an increasing percentage of fossil-fuel containing plastics in the waste burnt by incinerators, as a result of increasing recycling of other materials.

Not all waste to energy technologies are bad for the climate. A good example is anaerobic digestion of source-separated food waste, which generates 100% renewable energy, and in addition a high quality compost that can be used on agricultural land.

3. Key improvements required

3.1 Scope and definitions (Chapters 1 and 3 of the WFD)

Article 1: Subject Matter

In Friends of the Earth Europe's view, Article 1 should contain the objectives of this legislation, and we strongly disagree with the way in which the Commission is placing recycling and recovery at the same level in both the Thematic Strategy and the revised Waste Directive.

We consider that waste policy should be guided by the well established waste hierarchy (reduce > reuse > recycle and compost > energy recovery > disposal). We do accept that, in certain cases where there is overwhelming evidence of environmental benefit, life cycle assessment tools can be used to interpret the hierarchy flexibly, but this should be the exception to the rule.

We would also argue that this directive should have the key objective of minimisation of waste and its environmental impacts. A key aim should also be the improvement of resource efficiency, so that the EU uses resources as efficiently as possible, ensuring that sufficient resources are available for the poorer parts of the world to improve their standard of living.

Article 3: Definitions

We consider that it is important that the revised WFD should include a definition of prevention, given the acknowledged importance of promoting waste prevention. This definition should incorporate the reduction in generation of waste, including reuse activities that lead to prevention, and the reduction of hazardousness of waste.

We also consider that the definition of recycling should be clarified in order to clearly limit it to material recycling.

3.2 Definitions of recovery and disposal and end of waste (Chapters 2 and 3, and Annex 1 & 2 of the WFD)

Article 5 - Definition of recovery

For a basic outline of the importance of the recovery vs disposal debate, see Box 2. Friends of the Earth Europe is very concerned about the proposed process for redefining some waste treatments as recovery. Our particular concerns include:

- The undemocratic nature of the comitology process, as discussed below.
- The lack of consideration of whether the material concerned can be processed through a higher option on the waste hierarchy. No process should be defined as recovery if the material concerned can be processed through a higher option on the hierarchy.
- The criterion that recovery involves "serving a useful purpose in replacing, whether in the plant or in the wider economy" is unacceptably wide

Box 2: Recovery or disposal?

The argument about recovery vs disposal may seem to be very complex, however the core principle is fairly simple, as it is about signalling the desirability of different waste management approaches:

- The description of a process as recovery gives a strong positive signal to the market – this is something that we want to encourage, e.g. materials recovery such as recycling paper.
- Labelling a process as disposal gives a different signal – this is something that we want people to move away from if possible, as there are better environmental options. We can still ensure that a disposal process is as environmentally efficient as possible, but it remains as disposal, something we want, ideally, to phase out.

Recovery is something we are trying to promote, disposal is something we are trying to avoid.

and simplistic. Just filling in a hole in the ground could then be defined as recovery. Recovery must be defined by multiple criteria, including ensuring that the replacement reflects the best environmental option for a particular waste stream, taking into account firstly material savings and prevention of dispersion and formation of hazardous substances and, secondly other resource efficiencies such as energy.

- We do not support any measures that would lead to the preparation of waste for recovery being classified as part of the recovery process. In our view it is not the beginning, but the end, of the recycling or recovery process that changes the classification of the material. Material being shipped to a treatment installation is still waste.

Annex 2 - Definition of incineration as recovery

Annex 2 proposes to redefine certain 'efficient' municipal waste incinerators as recovery. We strongly disagree with this proposal, as it is clear that from both a resource and a climate point of view it is more 'efficient' to prevent, reuse or recycle, so incineration should not be promoted in this way as it will lead to diversion of waste down the waste hierarchy.

If incineration were to be classified as recovery, it will be more difficult to induce municipalities and regions to sort and recycle waste, if instead they can just send it to an incinerator. An increased promotion of incineration as a 'recovery' route will also not provide any incentives for industry to innovate towards greener products that avoid waste or are recyclable or compostable.

The Commission's impact assessment acknowledges the important climate benefits to be gained from recycling and composting, and also points out the complexity of the impact of energy from waste on climate, given that carbon dioxide is emitted (much of it from fossil fuels e.g. oil-based plastics) and given that most energy from waste technologies are very inefficient generators of energy. The fossil-fuel portion of emissions is likely to increase as recycling and composting are further promoted, due to the fact that the majority of the renewable fraction of waste is recyclable waste streams- namely wood, paper, textiles, green waste and food waste.

The Commission claims that the re-classification is needed in order to ensure that waste is diverted

from landfill. Friends of the Earth Europe does not find these claims convincing:

- The Commission's logic implies that if incineration is not promoted for burning biowaste, then Member States will ignore the Landfill Directive. Given the legal requirements of the Landfill Directive, this seems rather unlikely. The landfill directive sets legally binding targets on Member States; breach of these targets could then result in fines from the European Commission. This is not an empty threat – in 2001 the Commission fined Greece nearly €4.8 million for a landfill that failed to follow EU waste laws [8].
- In contrast, we are aware that many Member States are actively working on diversion of biodegradable waste from landfill, for example through developing source-separated composting or increasing paper recycling. What is missing is not more promotion of incineration for this recyclable or compostable waste, but a regulatory framework to further encourage composting – a Biowaste Directive for example (see below).
- Energy recovery (and also heat recovery) is already required under the Waste Incineration Directive (WID) (articles 4.2.b and art 6.6) 'as far as practicable' and the IPPC BREF is supposed to be applied from 2008. It appears inappropriate and unnecessary to use this Framework Directive to replicate elements that are already covered in the WID and IPPC.
- Setting energy efficiency criteria without consideration of the best environmental option for a waste stream will lead to negative environmental implications, e.g. by encouraging recyclable waste to be incinerated when greater savings of energy can usually be achieved through recycling, preventing the use of 'virgin' materials and energy.

In addition, we are concerned that classifying MSW incineration as recovery will increase the possibilities for transport of municipal solid waste and similar wastes to incinerators in other regions and countries other than those in where they are generated. Despite the recent strengthening of the Waste Shipment Regulation, the strongest controls (e.g. the proximity and self-sufficiency principles) only exist when waste is exported or imported for disposal, not recovery (article 11). This problem is already emerging in the new Member States, where waste exports from Germany are causing major problems – see Box 3.

We would therefore suggest that the Commission's changes to R1 should be deleted.

Article 11: Defining "end of waste"

We consider that the wide ranging plans to define 'end of waste' in an untransparent comitology process do not respect the importance of democratic debate on such complex issues. In addition, it is vital that this provision does not lead to re-definition of items that are clearly still waste, such as refuse derived fuel.

We would therefore propose the following:

- The process must only redefine products that meet a stringent set of criteria (e.g. good quality compost from food waste), where this is the best environmental option for the waste stream concerned.
- It should be made clear that the end of waste criteria in Article 11 should never apply to refuse-derived fuel. We would also suggest that other requirements need to be added.
- Classification as secondary materials should only occur after the recovery process is completed.
- Stronger governance procedures should be introduced, for example a requirement that final proposals are submitted to the co-decision process.

General issue: Use of comitology procedure

The proposal to use comitology for setting end of waste criteria (article 11), distinguishing recovery operations from disposal ones (articles 5 and 6) and setting quality criteria for recovery operations contradicts the Treaty and undermines democratic controls:

- Article 202 of the EC Treaty provides the Committee procedure for implementation rules. The decision as to when a waste stops being

waste is not an implementation provision, but an important policy decision.

- The Comitology procedure gives the Commission considerable power, and provides little opportunity for the European Parliament to be involved. Moving crucial waste management decisions into this process is in contradiction to democratic principles.

3.3 Hazardous Waste including Waste Oil (Chapter 4 and Annex 3 of the WFD)

Incorporation of the Hazardous Waste Directive

Friends of the Earth Europe would like to be assured that the incorporation of the Hazardous Waste Directive will result in an improved standard of protection for human health and the environment.

Waste oils

We are unconvinced by the Commission's rationale for withdrawing the preference for waste oil regeneration. We consider the impact assessment to be of poor quality, and would also suggest that some of the claims in it may come back to haunt the Commission in the future, for example:

"depletion of fossil fuel resources is no longer seen as an environmental impact in itself, but rather the CO₂ and other pollutants arising from the combustion of fossil fuels" (page 63 of the impact assessment).

We would suggest that the current increases in oil prices and long term concerns over oil supply would seem to indicate a greater preference for regeneration than the Commission takes account of.

Box 3: Central Europe – the EU's new dustbin?

During the first few months of 2006 there was a major political scandal in the Czech republic as a result of the discovery that hundreds of lorry loads of illegal waste exports were arriving from Germany. The first illegal imports were brought in under the pretext of energy recovery of the waste in the Pilsen incinerator.

In May 2006, as a result of this scandal, and concerns over similar problems in adjacent countries, the governments of the Visegrad group of countries (Poland, Czech Republic, Slovakia and Hungary) issued a statement [9] that challenged the Commission's plan to reclassify incinerators as facilities for energy recovery.

The Visegrad ministers also acknowledged waste hierarchy, preferring reuse and recycling over energy recovery. They also called for the application of the self-sufficiency and proximity principles to all dedicated waste incineration facilities.

3.4 Waste Management Plans and Waste Prevention Programmes (Chapter 6 and Annex 4 of the WFD)

Chapter 6, Section 1: Waste Management plans

We are concerned that the proposal does not describe how the Commission will deal with the waste management plans that it will receive. Without effective monitoring by the Commission we are unlikely to get better implementation and enforcement of EU waste laws, resulting in impacts on the environment and human health, and distortion of the internal market.

Chapter 6, Section 2: Waste prevention programmes

Friends of the Earth Europe strongly supports measures to increase the focus on waste prevention, as this is extremely environmentally beneficial. Waste prevention has been a stated priority for decades, yet waste arisings have increased over this period. We believe that without an effective waste prevention process, this failure will continue, generating ever-increasing environmental damage and wasting valuable resources.

We do not believe that the measures in the proposed WFD will deliver a coherent and effective waste prevention programme. As mentioned earlier, the Commission does not even define waste prevention, and the proposed system is devolved to Member State level, which is likely to lead to uneven and ineffective implementation and possible disruption to the internal market. This system will also make it difficult to identify and address measures which need to be taken at EU level in order to be effective

Therefore, in our view, we need an additional Commission-led process which will develop and assist in implementing targets for waste prevention, and residual waste reduction, and plans to achieve these targets. This process would share experience between Member States on how to achieve these targets, monitor progress, and identify measures that need to be taken at Community level, for example new producer responsibility or waste stream legislation.

3.5 Key Elements missing from the Directive.

In our view the Directive has four further key deficiencies, which we would like to see corrected:

a) Retention of the framework nature of this Directive

The proposed revision of the WFD has removed the article that was the basis for further waste stream legislation (Article 2.2).

“Specific rules for particular instances, or supplementing those of this Directive, on the management of particular categories of waste, may be laid down by means of individual Directives.”

In our view this article should be re-instated, though consideration should be given to its extension to recognise existing recycling directives and foresee action on specific materials or waste streams.

b) A phase out of the disposal of any materials that are reusable, recyclable or compostable

Friends of the Earth Europe would suggest that the most effective way of ensuring that the maximum amount of waste is prevented, reused, recycled or composted would be to phase in a ban on the disposal (by landfill or incineration) of all waste that is capable of being processed further up the hierarchy.

c) Lack of proposals from the Commission for further product based producer responsibility directives

We are disturbed that the Commission appears to be proposing a stop to the further development of the product-based producer responsibility approach, as used in the End of Life Vehicles and Waste Electrical and Electronic Engineering Directives, as we consider that this is one of the best ways of encouraging manufacturers to innovate towards greener products. The Commission is instead proposing an ill-defined material-based approach, in which no clear policy measures have been outlined, and which has been justified through some extremely poor analysis in the impact assessment [10, 11].

In order to promote continued development of this approach, the WFD should be amended to make clear its framework character, and EU-level product based producer responsibility legislation should be explicitly mentioned as a tool for waste prevention.

d) Lack of proposals from the Commission for a Biowaste directive

We disagree with the Commission’s decision not to proceed with a Biowaste Directive, as we believe that this would have considerable environmental benefits, and assist in the diversion of biodegradable municipal waste from landfill.

4. Conclusions

This waste policy revision provides a real opportunity to create more efficient and sustainable use of resources in Europe. Unfortunately, the Commission's proposals do not address this challenge, and seem to be more focussed on promoting incineration. In addition, this proposal does not address the real inadequacies in waste management within many EU Member States.

Friends of the Earth Europe is looking to Members of the European parliament, and European Union governments, to improve this proposal to ensure that it really does set Europe in the right direction, promoting innovation towards a more sustainable future.

5. Contact details

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