

REVISION OF THE EU WASTE FRAMEWORK DIRECTIVE

The European Organization for
Packaging and the Environment aisbl
Le Royal Tervuren
Avenue de l'Armée 6 Legerlaan
1040 Brussels, Belgium
Phone: +32 2 736 3600
Fax: +32 2 736 3521
packaging@europen.be
www.europen.be

Comments on The "Waste Hierarchy"

Many industry groups* are increasingly concerned by the current debate on the "waste hierarchy" related to the EU Commission proposal to revise the Waste Framework Directive¹. This complex topic has been misunderstood by some and its importance as a critical element of achieving sustainability goals has been underestimated. Fundamental principles of law appear to have been overlooked, such as the necessity of proportionality and equal treatment, without which barriers to trade and distortions of competition often appear. In addition, much of the discussion in relation to the "waste hierarchy" remains subjective and lacks objective scientific justification.

1. We support the European Commission's proposal and endorse the existing principles of the "hierarchy" contained in the current waste framework Directive and its "daughter" directives such as the Packaging and Packaging Waste, WEEE and ELV Directives. These give first priority to "prevention" and make "disposal" the least favoured option.
2. We fully endorse the view that the subject should be treated in the overall frame of "life cycle thinking"² remembering however that waste is only one phase of a life cycle. Mixing waste management issues with product-related issues – a confusion frequently occurring in the current debate – has to be avoided.
3. No scientific evidence has thus far established a strict hierarchy between reuse, recycling and other recovery options. Indeed, numerous well-founded studies consistently show that the choice depends critically on the particular circumstances relating to a product chain³.
4. Any attempt to lay down a rigid hierarchy between management options should be rejected as conflicting with fundamental principles of law, namely proportionality and equal treatment, and as a source of additional barriers to trade and distortions of competition.
5. The now generally applicable 'Better Regulation' tests commit both the EU and member states to apply the triple impact assessment; economic, social and environmental. A strict hierarchy is unlikely to be justified under such tests.
6. Although policy statements at both European and national level have promoted various forms of a "hierarchy", EU waste legislation does not and has never contained a rigid hierarchy.

For these reasons we support retaining the present EU policy and Commission proposal (Article 1) which places prevention as the highest priority, final disposal as the least favoured option and a flexible approach to the choice of recovery options

*The European Organization for
Packaging and the Environment
(EUROPEN)
Alliance for Beverage Cartons and the
Environment (ACE)
European Brands Association (AIM)
Beverage Can Makers Europe (BCME)
Confederation of the Food and Drink
Industries of the EU (CIAA)
European Federation of Bottled Water
(EFBW)
EuroCommerce
European Federation of Corrugated
Board Manufacturers (FEFCO)
PlasticsEurope
European Soft Drinks Industry (UNESDA)

Justification

- a) A previous paper⁴ demonstrated that today throughout Europe, such a hierarchy is neither the law nor is it practised by the authorities responsible for waste management at a local and regional level.

This is supported by a new survey⁵ of current waste management practices which looked at the following practical examples:

The city of **Vienna** has a system for the separate collection of recyclable materials in separate streams. However, since its ambitious start, separate collection of plastics has been downsized to be more realistic and effective. Plastic bottles and other plastic containers are collected separately for recycling; other plastic material remains in mixed residual waste to be used for energy recovery because separate collection and recycling of this fraction is expensive and of doubtful ecological value.

In **Amsterdam** local authorities may decide to abandon separate collection of biowaste. In its most recent waste management plan, after performing an LCA which showed only a marginal environmental preference of composting over incineration with energy recovery, the Dutch government has acknowledged the need for flexibility.

Scotland has determined Best Practicable Environmental Options (BPEO) for all regions in its territory. Separate kerbside collection of recyclable waste is difficult to justify in the remote parts of the Western Isles on economic and environmental grounds, but the local market for compost or digestate supports biological treatment of biodegradable waste. Greater emphasis is put on recycling and less on composting in the more densely populated region of Glasgow and Clyde Valley.

The geographic and climatic situation in **Finland** has led to a system where mixed collection and landfilling is the preferred option for mixed municipal waste in large parts of the country. The handling of biowaste is often limited to the colder seasons when it is easier. In some cities, residual waste is converted into energy, but landfilling is also quite common.

In **France**, local authorities choose different ways of treating waste in a pragmatic way, integrating not only environmental criteria but also the costs that will be passed on to citizens. **Bordeaux, Nantes, Rennes and Strasbourg** are good examples of this flexible approach. The size of the local authorities, whether urban, rural or both, and their waste characteristics (breakdown between industrial, commercial and household packaging waste) are the criteria used to determine the choice. The bigger the area and the greater the variations, the more flexible the approach.

The survey concludes:

“Flexibility is essential

A general characteristic of the examples that are given ... is that all actors involved in the application of the waste hierarchy agree that it should be applied in a flexible way, because each local situation and each product or waste stream is different. The current hierarchy is a good guideline against which one would set the options, but the outcome of the assessment depends largely on the local situation and possibilities.”

- b) In its justification for amendment 4, the European Parliament Environment Committee’s draft report⁶ states, “*The Commission’s attempt to ‘flatten the waste hierarchy’ is not helpful and could lead to confusion*”. Although discussion of a “hierarchy” is contained in various EU policy documents, nowhere in European legislation does a strict hierarchy of waste management options exist. The justification also describes the text of the amendment as having “*no legal force*” and “*a guideline*”. However, because each option is assigned a number in the text, the amendment implies a strict and legal order of preference and Member States would certainly have the option of such an interpretation.

This opinion is reinforced by the text of the justification for amendment 5, which refers to “*building in a degree of flexibility*” and “*Life Cycle Thinking*” providing a “*basis for derogations*”, i.e. the hierarchy is fixed and any derogations must be justified.

- c) A rigid waste hierarchy as proposed in the European Parliament Environment Committee draft amendments and the Council Conclusions⁷ together with the proposed grounds for any possible derogation would also risk becoming an unwarranted intrusion into the operations of the European market economy. This would be counter to the objectives of the Lisbon Strategy and would not bring any additional environmental benefits.

Conclusions

A change in the existing EU waste hierarchy such as proposed in the Environment Committee’s draft report and mirrored by the Council and Committee of Regions would:

- Contradict the current waste management practices of many progressive cities and regions of Europe and render them open to legal challenge;
- Place a huge bureaucratic and cost burden on industry and Member States with negative consequences for European competitiveness;
- Conflict with fundamental principles of law (proportionality and equal treatment) and hence unjustifiably interfere with the operation of the European internal market and distort competition.

We therefore urge rejection of the idea to adopt a strict waste management hierarchy and support retaining the present EU policy which places prevention as the highest priority, final disposal as the least favoured option and a flexible approach to the choice of recovery options as contained in Article 1 of the Commission proposal to revise the Waste Framework Directive.

29/8/2006

¹ COM(2005) 667 final.

² Life-cycle *thinking* is not the same as life-cycle *assessment*. “The concept of **life cycle thinking** integrates existing consumption and production strategies, preventing a piece-meal approach. Life cycle approaches avoid problem-shifting from one life cycle stage to another, from one geographic area to another and from one environmental medium to another. (...) **Life Cycle Assessment** is a tool for the systematic evaluation of the environmental aspects of a product or service system through all stages of its life cycle.” UNEP, 2005. Life cycle approaches: The road from analysis to practice (page 9).

³ See i) RDC Coopers and Lybrand 1997. Eco-balances for Policy-making in the Domain of Packaging and Packaging Waste. Reference no.: B4-3040/95001058/MAR/E3.
ii) Coopers and Lybrand, 1996. Cost Benefit Analysis of the Different Municipal Solid Waste Management Systems: Objectives and Instruments for the Year 2000. Final Report for European Commission, DGXI. March 1996.

⁴ *A Flexible Approach to the Waste Management Hierarchy: Lessons from ten years of packaging waste management*. EUROOPEN, 19 June 2006.

⁵ *The use of the waste hierarchy in certain parts of Europe: Examples of a flexible approach to the hierarchy*. FFact Management Consultants, Rijen, The Netherlands, July 2006. <http://www.europen.be/issues/2006-07%20FINAL%20Fact%20Management%20final%20report%20examples%20hierarchy.pdf>

⁶ Draft Report on the proposal for a directive of the European Parliament and of the Council on waste (PE 374.384v01-00).

⁷ Council Conclusions on the Thematic Strategy on prevention and recycling of waste, adopted by the Environment Council on 27 June 2006 (11103/06).