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*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on waste
(COM(2005)0667 – C6-0009/2006 – 2005/0281(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Caroline Jackson

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on waste (COM(2005)0667 – C6-0009/2006 – 2005/0281(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0667)¹,
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0009/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Industry, Research and Energy (A6-0000/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 11

(11) A definition of re-use should be added in order to clarify the ambit of this operation in general waste treatment and the role of the re-use of materials or products that are within the scope of the definition of waste. ***The definition of re-use should not cover the re-use of products which do not become waste in the first place, and should relate, therefore, only to activities which lead to the re-use of products or components that have become waste.***

(11) A definition of re-use should be added in order to clarify the ambit of this operation in general waste treatment and the role of the re-use of materials or products that are within the scope of the definition of waste.

¹ OJ C ... / Not yet published in OJ.

Justification

Linked to the amendment to article 3(f).

Amendment 2
Recital 19

(19) Certain provisions on the handling of waste, laid down in Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, should be amended in order to remove obsolete material and to improve the clarity of the text. In the interests of the simplification of Community legislation, they should be integrated into the present Directive. In order to clarify the operation of the mixing ban, and to protect the environment and human health, the exemptions to the mixing ban laid down in Directive 91/689/EEC should be confined to situations where such mixing **represents best available techniques as defined in** Directive 96/61/EC. Directive 91/689/EEC should therefore be repealed.

(19) Certain provisions on the handling of waste, laid down in Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, should be amended in order to remove obsolete material and to improve the clarity of the text. In the interests of the simplification of Community legislation, they should be integrated into the present Directive. In order to clarify the operation of the mixing ban, and to protect the environment and human health, the exemptions to the mixing ban laid down in Directive 91/689/EEC should be confined to situations where such mixing **is carried out by an establishment which has a permit under** Directive 96/61/EC. Directive 91/689/EEC should therefore be repealed.

Justification

Linked to the amendment to article 16(1).

Amendment 3
Article 1, paragraph 1

This Directive lays down measures **with a view to reducing the overall environmental impacts, related to the use of resources**, of the generation and management of waste.

1. This Directive lays down measures **intended to reduce the impact** of the generation and management of waste **on the environment and to make better use of resources, taking into account the whole life-cycle of products and materials, and the need to ensure that waste management systems give a high priority to the protection of human health.**

Justification

The Commission text is an inadequate and rather confusing statement of the aims of the

Directive which the amendment tries to improve. Reference to the life-cycle concept and to the need to prioritise human health considerations is particularly necessary. The reference to life-cycle treatment is taken from recital 6.

Amendment 4
Article 1, paragraph 2

For ***the same*** purposes, it ***also*** makes provision whereby the Member States are to take measures, as a matter of priority, for the prevention or reduction of waste production and its harmfulness ***and, secondly, for the recovery of waste by means of*** re-use, recycling ***and*** other recovery operations.

2. For ***these*** purposes it makes provision whereby the Member States are to take measures, as a matter of priority, for:

- (i)*** the prevention or reduction of waste production and its harmfulness,
- (ii)*** ***the re-use of waste,***
- (iii)*** ***the recycling of waste,***
- (iv)*** other recovery operations,
- (v)*** ***the disposal of waste.***

Justification

The Commission's attempt to "flatten the waste hierarchy" is not helpful and could lead to confusion. Although it has no legal force, the 5-stage hierarchy of the EU's options for waste disposal is generally accepted as a useful guideline. The Commission's text also has the disadvantage of leaving out any specific reference to disposal as the least favoured option.

Amendment 5
Article 1, paragraph 2 a (new)

2a. When life-cycle assessments and cost-benefit analyses indicate clearly that an alternative treatment option shows a better record for a specific waste stream, Member States may depart from the priorities established in paragraph 2. If necessary, the Commission will draw up guidelines for the application of such assessments and analyses.

Justification

While the hierarchy will set the overall framework for waste disposal, we need to build in a degree of flexibility. Here Life-Cycle Thinking is the best supplementary tool that can provide the basis for derogations.

Amendment 6
Article 2, paragraph 3

3. It shall not cover faecal matter, straw and other natural non-hazardous substances from agricultural production that are used in farming or for the production of energy from biomass through using processes or methods which do not harm the environment or endanger human health.

3. It shall not cover faecal matter, straw and other natural non-hazardous substances from agricultural production **and forestry** that are used in farming or for the production of energy from biomass **or as industrial feedstocks** through using processes or methods which do not harm the environment or endanger human health.

Justification

In forestry many by-products are formed that currently are classified as waste, even though they are pure natural products and totally harmless. These materials are equated with non-hazardous substances in agricultural production but are not covered by these. The reference to industrial feedstocks is necessary to cover such items as hemp bricks and straw bale buildings.

Amendment 7 Article 3, point (f)

(f) 're-use' means **any recovery operation by which products or components that have become waste are used again for the same purpose for which they were conceived;**

(f) 're-use' means **the use of products or components, either waste or non-waste, for the same purpose for which they were conceived without any prior treatment apart from cleaning or repairing;**

Justification

The Commission's definition is unsatisfactory because it only deals with the re-use of products that have become waste. But re-use activities can also be carried out on products that are sent directly from consumer to re-user and have, therefore, never become waste.

Amendment 8 Article 3, point (h)

(h) 'mineral waste oils' means any mineral-based lubrication or industrial oils which have become unfit for the use for which they were originally intended, and in particular used combustion engine oils and gearbox oils, **mineral** lubricating oils, oils for turbines and hydraulic oils;

(h) 'mineral waste oils' means any mineral, **synthetic or biological**-based lubrication or industrial oils which have become unfit for the use for which they were originally intended, and in particular used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

Justification

Lubrication and industrial oils are frequently based on synthetic base stock and in some cases on base stocks derived from vegetable oils. This definition ensures inclusion of all lubrication and industrial oils.

Amendment 9
Article 3, point (i)

- (i) 'treatment' means recovery or disposal. (i) 'treatment' means recovery or disposal **and includes interim treatment operations such as re-packaging, exchange, blending, mixing or storage prior to recovery or disposal;**

Justification

A more comprehensive and informative definition is needed.

Amendment 10
Article 3, point (i a) (new)

(ia) 'recovery' means any operation, other than cleaning processes, that waste undergoes that results in it serving a useful purpose in replacing, whether in the plant or in the wider economy, other resources which would have been used to fulfil that function or in it being prepared for such use, hereinafter referred to as "recovery operations". It shall cover the operations listed in Annex II. All recovery operations shall give a high priority to the protection of human health and of the environment.

Justification

It is better to place all definitions in Article 3 than spread them between Articles 3 and 5, as the Commission proposal does. The Directive should continue to prioritise health and environmental considerations.

Amendment 11
Article 3, point (i b) (new)

(ib) 'disposal' means any operation that does not fulfil the conditions of recovery and at least the operations listed in Annex I. All disposal operations shall give a high priority to the protection of human health and of the environment.

Justification

It is better to place all definitions in Article 3 than spread them between Articles 3 and 5, as the Commission proposal does. The Directive should continue to prioritise health and environmental considerations.

Amendment 12
Article 3, point (i c) (new)

(ic) 'by-products' means products, materials and substances resulting from a production process, the primary aim of which may not be the production of that item, and which the holder does not wish to discard but wishes at the time of production to use or sell for use; such use must be certain and the item must not require any further processing before such use;

Justification

The amendment sets out the situation regarding by-products as determined in several recent Court of Justice cases (Case 9/00 Palin Granit; Case 235/02 Saetti and Frediani, Cases C-416/02 ad C-121/03).

Amendment 13
Article 3, point (i d) (new)

(id) 'dealer' means anyone who acts in the role of principal to purchase and subsequently sell waste, including dealers who do not take physical possession of the waste;

Justification

There is a reference to dealers in Article 25. The definition is taken from the Regulation on shipment of waste.

Amendment 14
Article 3, point (i e) (new)

(ie) 'broker' is anyone arranging for the recovery or disposal of waste on behalf of others, including brokers who do not take physical possession of the waste;

Justification

There is a reference to brokers in Article 25. The definition is taken from the Regulation on shipment of waste.

Amendment 15
Article 4

A list of wastes shall be established by the Commission, in accordance with the procedure referred to in Article 36(2).

The list shall include waste to be regarded as hazardous pursuant to Articles 12 to 15, taking into account the origin and composition of the waste and, where necessary, limit values of concentration.

The list of wastes established by Commission Decision 2000/532/EC¹ shall be annexed to the Directive. The list may be amended by the Commission in accordance with the procedure referred to in Article 36(2).

The list shall be maintained, and amended, by the Commission for data collection purposes, and shall also include waste to be regarded as hazardous pursuant to Articles 12 and 15, taking into account the origin and composition of the waste and, where necessary, limit values of concentrations.

¹ *OJ L 226, 6.9.2000, p. 3. Decision as last amended by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p. 18).*

Justification

The amendment is in the interests of greater clarity.

Amendment 16
Article 5, paragraph 1

1. Member States shall take the necessary

1. Member States shall take the necessary

measures to ensure that all waste undergoes operations *that result in it serving a useful purpose in replacing, whether in the plant or in the wider economy, other resources which would have been used to fulfil that function, or in it being prepared for such a use, hereinafter “recovery operations”*. They shall *regard as recovery operations* at least the operations listed in Annex II.

measures, *consistent with the objectives stated in Article 1*, to ensure that, *wherever practicable*, all waste undergoes *recovery operations*. *These* shall *include* at least the operations listed in Annex II.

For the avoidance of doubt, operations shall fall within Annex II despite producing some material which thereafter undergoes disposal operations if their primary purpose is a recovery operation falling within Annex II.

Justification

The wording in the first paragraph of the Commission text is a statement of the impossible: "all waste" simply cannot undergo the operations specified except at an infinite cost. The amendment keeps the spirit of the Commission text while making the process more practicable.

The second paragraph of the amendment is necessary to cover recovery or recycling operations where it is not possible to recover or recycle 100% of the material concerned. An example would be a material recovery facility which recycles paper, where there is a non-recyclable residue at the end of the operation.

Amendment 17 Article 5, paragraph 2

2. The Commission *may, in accordance with the procedure referred to in Article 36(2), adopt implementing measures* in order to set efficiency criteria *on the basis of which operations listed in Annex II may be considered to have resulted in a useful purpose, as referred to in paragraph 1.*

2. *For such recovery operations* the Commission *shall, if appropriate, put forward by ... * a legislative proposal* in order to set efficiency criteria *that will ensure that the recovery operation does serve a useful purpose in replacing other resources, as set out for the incineration of waste in Annex II, R1.*

_____*

Two years after the entry into force of this Directive.

Justification

In the view of the rapporteur, the determination of the efficiency criteria, because of the consequences that flow from the decision, is a political decision, not a technical adjustment. Most importantly the criteria will determine to what extent a country has a recovery or disposal infrastructure. The matter should, therefore, be subject to the full scrutiny of the co-decision process. Although the comitology process is under review, it seems extremely unlikely that Commission and Council will allow it to be as transparent as Parliament would like, or that Parliament will gain any effective veto over the process.

Amendment 18

Article 5, paragraph 2 a (new)

2a. New recovery operations may be added to the operations listed in Annex II on the basis of a proposal from the Commission to the European Parliament and the Council, as provided for in Article 21a.

Justification

The list will need updating from time to time. Co-decision, for the reasons given in the preceding amendment, is needed.

Amendment 19

Article 6

1. Member States shall ensure that, where recovery ***in accordance with Article 5(1) is not possible***, all waste undergoes disposal operations.

They shall prohibit the abandonment, dumping or uncontrolled disposal of waste.

2. ***Member States shall regard as disposal operations at least the operations listed in Annex I, even where the operation has as a secondary consequence the reclamation of substances or energy.***

3. Where, despite substitution of resources taking place, the results of an operation indicate that, for the purposes of Article 1, ***it has only a low potential***, the

1. Member States shall ensure that where recovery ***does not take place***, all waste undergoes disposal operations ***which meet the objectives set out in Article 7.***

They shall prohibit the abandonment, dumping or uncontrolled disposal of waste.

2. Disposal operations ***shall include*** the operations listed in Annex I.

3. Where, despite substitution of resources taking place, the results of an operation indicate that, for the purposes of Article 1, ***the substitution is only a limited one***, the

Commission may, in accordance with the procedure referred to in Article 36(2), adopt implementing measures adding that specific operation to the list set out in Annex I.

Commission may, in accordance with the procedure referred to in Article 36(2), adopt implementing measures adding that specific operation to the list set out in Annex I.

Justification

The amendment tightens up more precisely on the conditions for disposal and sets out the obligations on Member States more clearly. This is the kind of waste most likely to be illegally dumped or exported.

The deleted wording in paragraph 2 is unnecessary and confusing. The intention elsewhere in the proposal is to distinguish between R1 and D10 operations by means of an efficiency threshold and not by identifying the principal or secondary aim of the operation. A landfill site where energy is recovered from the methane produced from the waste is still a disposal site whether or not these words are included: it will not fall within the definition of recovery.

The amendment to paragraph 3 is designed to give greater clarity.

Amendment 20 Article 7

Member States shall ensure that the recovery or disposal of waste is carried out **as follows**:

- (a) **without endangering** human health;
- (b) **without using processes or methods which could harm** the environment;
- (c) **without risk to** water, air, soil and plants **and animals**;
- (d) without causing a nuisance through noise or odours;

(e) **without** adversely affecting the countryside or places of special interest.

Member States shall **take measures to** ensure that the recovery and disposal of waste is carried out **by means of processes or methods ensuring a high level of protection for**:

- (a) human health,
- (b) the environment,
- (c) water, air, soil and plants,

and without causing a nuisance through noise or odours **or** adversely affecting the countryside or places of special interest.

Justification

Strictly speaking, “without risk” means with zero risk and that, sadly, does not exist. Existing Community case law recognises this: in Commission v. Ireland (2005) the Court held that, in relation to Article 4 of the existing directive “ it is for the Community and the Member States to prevent, reduce and, insofar as is possible, eliminate from the outset the source of pollution or nuisance by adopting measures of such a nature as to eliminate recognised risks”. This is a lot more carefully worded than the Commission’s text in this proposal.

Amendment 21
Article 9

Member States shall ensure that the costs entailed in the recovery or disposal of waste are allocated, as appropriate, between the holder, previous holders and the producer.

Member States shall ensure that, ***in accordance with the "polluter pays" principle***, the costs entailed in the recovery or disposal of waste are allocated, as appropriate, between the holder, previous holders and the producer.

Justification

This returns to the spirit of article 15 in the current Directive, particularly through the re-introduction of the "polluter pays" principle.

Amendment 22
Article 11, paragraph 1

1. ***With a view to determining whether it is appropriate to deem certain waste to have ceased being waste, to have completed a re-use, recycling or recovery operation, and to reclassify that waste as secondary products materials or substances, the Commission shall assess whether the following conditions are met:***

(a) reclassification would not lead to overall negative environmental impacts;

(b) a market exists for such a secondary product, material or substance.

1. ***Member States may request the Commission to determine whether a given waste has ceased to be a waste, on the basis that:***

(a) *it has* completed a re-use, recycling or recovery operation and ***is hence to be re-classified*** as secondary products, materials or substances; ***and***

(b) *such* reclassification would not lead to overall negative environmental impacts; ***and***

(c) a market exists, ***or would exist***, for such a secondary product, material or substance.

Justification

Re-worded for greater clarity.

Amendment 23
Article 11, paragraph 2

2. ***On*** the basis of its assessment pursuant to paragraph 1, ***the Commission shall, in accordance with the procedure referred to in Article 36(2), adopt implementing***

By ... * the Commission shall, if appropriate, on the basis of its assessment pursuant to paragraph 1, ***put forward a legislative proposal*** specifying the

measures in respect of a specific product, material or substance category of waste, specifying the environmental and quality criteria to be met in order for **that** waste to be deemed to have become a secondary product material or substance.

environmental and quality criteria to be met in order for **specific products, materials or substance categories of** waste to be deemed to have become a secondary product, material or substance.

** Two years after entry into force of this Directive*

Justification

The question of which “daughter directives” should follow on from this Directive, and the question of which form such Directives should take, are political ones. They should, therefore, be subject to the co-decision procedure.

Amendment 24

Article 11, paragraph 3 a (new)

3a. By ... ** the Commission shall, if appropriate, make proposals for the determination of whether the following waste streams fall under the provisions of this Article, and if so, what specifications should apply to them:

- **compost,**
- **construction and demolition waste,**
- **recovered paper,**
- **recovered glass.**

*** Five years after entry into force of this Directive*

Justification

These are the most urgent candidates for new proposals.

Amendment 25

Article 15

1. Where a Member State has evidence to show that a specific waste that appears on the list as hazardous waste does not display any of the properties listed in Annex III, it **may treat that waste as non-hazardous waste.**

1. Where a Member State has evidence to show that a specific waste that appears on the list as hazardous waste does not display any of the properties listed in Annex III, it shall notify any such cases **immediately** to the Commission and shall provide the

The Member State shall notify any such cases to the Commission ***in the report provided for in Article 34(1)*** and shall provide the Commission with the necessary evidence.

2. The Commission shall, in the light of notifications received, review the list in order to decide on its adaptation, in accordance with the procedure referred to in Article 36(2).

Commission with the necessary evidence.

2. The Commission shall, in the light of notifications received, review the list in order to decide on its adaptation, in accordance with the procedure referred to in Article 36(2).

2a. Member States may treat the waste as non-hazardous waste after the adaptation of the list has been adopted.

Justification

The provisions set out in the Commission's proposal are unacceptable and likely to lead to divergent applications of the Directive since they would allow Member States to treat listed wastes as non-hazardous before notification of this to the Commission and, as importantly, before the Commission's confirmation.

Amendment 26 Article 16, paragraph 1

1. Member States shall take the necessary measures to ***ensure that the following conditions are met where hazardous waste is mixed, either with other hazardous waste possessing different properties or with other waste, substances or materials:***

(a) the mixing operation is carried out by an establishment or undertaking which has obtained a permit in accordance with Article 19;

(b) the conditions laid down in Article 7 are complied with;

(c) the environmental impact of the management of the waste is not worsened;

(d) such an operation conforms to best available techniques.

1. Member States shall take the necessary measures to ***require that establishments and undertakings which manage hazardous waste do not mix different categories of hazardous waste or mix hazardous waste with non-hazardous waste.***

1a. By way of derogation from paragraph 1, Member States may take measures to allow the mixing of different categories of hazardous waste or the mixing of hazardous waste with other waste, substances or materials provided that the mixing operation is carried out by an establishment or undertaking which has obtained a permit in accordance with Article 19 or which has a permit under Directive 96/61/EC.

Justification

The amendment restores the emphasis against the mixing of hazardous waste which is in the

current Directive and which should not be lost (Article 2.2 of the Hazardous Waste Directive).

Amendment 27
Article 18

Without prejudice to the obligations related to the handling of hazardous waste laid down in Articles 16 and 17, Member States shall take the necessary measures to ensure that mineral waste oils are collected and handled in accordance with Article 7.

Without prejudice to the obligations related to the handling of hazardous waste laid down in Articles 16 and 17, Member States shall take the necessary measures to ensure that mineral waste oils are collected and handled in accordance with **Article 1(2) and** Article 7.

Justification

The amendment sends the signal that Member States may give priority to waste oil regeneration without the absolute requirement contained in the waste oils directive that they must do so. It is only appropriate for the Environment Committee to give priority to recycling in this way.

Amendment 28
Article 21

The Commission **may, in accordance with the procedure referred to in Article 36(2), adopt** minimum standards for permits designed to ensure that the waste is treated in **an environmentally sound manner**.

The Commission **shall, if appropriate, make proposals for individual Directives laying down** minimum standards for permits designed to ensure that the waste is treated in **accordance with the objectives set out in Article 7**.

Justification

This is another example where the Directive leaves to comitology issues which should be the subject of a Commission proposal to the Parliament and Council. This is a framework directive. If there is a need to supplement it with specific rules to cover particular activities then that should be done by means of individual Directives. The Waste Thematic Strategy proposes that minimum standards will be applied to selected recovery operations. This suggests that this is exactly the type of case where a Framework Directive should be supplemented by means of an individual Directive, as is currently the case under article 2(2) of the existing Directive 75/442/EC.

Amendment 29
Article 21 a (new)

Article 21a

Supplemental measures

*By ... * the Commission shall draw up a report with a view to considering measures that may contribute to achieving the fulfilment of the objective set out in Article 1 more effectively. The report shall be submitted to the European Parliament and to the Council within six months of its completion, accompanied by proposals as appropriate.*

The report shall in particular consider:

(a) whether Annex II should be amended in order to:

(i) omit cases where listed operations do not lead to a sufficiently high proportion of the waste serving a useful purpose to be consistent with the objective set out in Article 1,

(ii) identify cases where the proportion of waste being used as opposed to that which is disposed of as part of a recovery operation should be specified in order to ensure that the objective set out in Article 1 is met,

(iii) specify a different energy efficiency level or levels in relation to recovery operation R1,

(iv) adapt any references in the light of technical and scientific progress;

(b) whether Annex I should be amended in order to:

(i) add any operations omitted from Annex II,

(ii) adapt any references in the light of technical and scientific progress; and

(c) whether specifying minimum standards for particular disposal or recovery operations will contribute to the objectives set out in Article 7.

The requirement for this report will not prevent the Commission from coming forward with any proposals in the meantime.

** Two years after the entry into force of this Directive.*

Justification

The proposal includes numerous references to the comitology procedure which leaves several important areas subject to amendment without proper scrutiny. This amendment would remedy this by requiring the Commission to report on several important areas with the intention that they would then be in a position to come forward with new proposals for the Parliament and Council to consider. The Commission must have in mind specific proposals already for the areas where it has proposed comitology procedures and it should therefore be in a position to bring these forward quickly. This should not prevent change in the interim, as the amendment makes clear that the Commission can come forward with its own proposals in the interim.

Amendment 30 Article 26, paragraphs 1 to 3

1. Member States shall ensure that their competent authorities establish, in accordance with Article 1, one or more waste management plans, which shall be revised at least every five years.

Those plans shall, alone or in combination, cover the entire geographical territory of the Member State concerned.

2. The waste management plans provided for in paragraph 1 shall set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken for the prevention, re-use, recycling, recovery and safe disposal of waste.

3. The waste management plans shall contain *at least the following*:

(a) the type, quantity and origin of waste generated as well as waste likely to be treated from outside the national territory;

(b) general technical requirements, including collection schemes and treatment methods;

(c) any special arrangements for waste streams that pose specific policy, technical

1. Member States shall ensure that their competent authorities establish, in accordance with Article 1, one or more waste management plans, which shall be ***kept under review and, if necessary,*** revised at least every five years.

Those plans shall, alone or in combination, cover the entire geographical territory of the Member State concerned.

2. The waste management plans provided for in paragraph 1 shall set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken for the prevention, re-use, recycling, recovery and safe disposal of waste.

3. The waste management plans shall contain ***all the information necessary to fulfil the obligation in paragraph 2 and to enable competent authorities, establishments and undertakings and the public to act so as to give effect to the plan.***

The Commission shall, as appropriate, provide guidelines for waste management planning.

or waste management problems;

(d) an identification and assessment of existing disposal and major recovery installations as well as historical contaminated waste disposal sites and measures for their rehabilitation;

(e) sufficient information, in the form of criteria for site identification, to enable the competent authorities to decide whether to grant authorisation or not for future disposal or major recovery installations;

(f) the natural or legal persons empowered to carry out the management of waste;(g) financial and organisational aspects related to the management of waste;

(h) an assessment of the usefulness and suitability of particular economic instruments in tackling various waste problems, taking into account the need to maintain the smooth functioning of the internal market.

Justification

The problem with waste management planning at Community level is that it risks becoming very bureaucratic. Waste planning by its nature must go down to the local level. Attempts to specify the detailed contents of the plan will quickly become mired in paperwork – both at the local level and at Community level. With some individual Member States contributing over 100 individual waste plans, it is clear that effective scrutiny to ensure all the individual requirements are met will be very difficult and time consuming.

Waste planning is about local communities finding effective ways of managing their waste. It will be clear from any plan whether the plan is a good one or not – and imposing a long list of obligatory requirements will not help achieve good planning. The Directive should set down the principle that good plans need to meet. Many of the examples included do not throw much light on how to plan but will provide good work for bureaucrats (e.g. how does a requirement to include “general technical requirements, including collection schemes and treatment methods” help?). If there are good points to be made as to what should be included, these can be set down in Commission guidance.

Amendment 31
Article 28

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 36(2), adopt the format for notification under Article 26(5).

Justification

Waste planning should be done by local communities finding effective ways to manage their waste. Local communities should be able to decide what their plans look like and what format is most helpful for them .

Amendment 32

Article 30, paragraph 1, subparagraph 1

1. In their programmes, Member States shall set waste prevention objectives and shall assess opportunities of taking measures *as set out* in Annex IV.

1. In their programmes, Member States shall set **out** waste prevention objectives and shall assess **the** opportunities **and costs** of taking measures, **such as those suggested** in Annex IV, **to attain these objectives**.

Justification

Annex IV contains every waste prevention measure that the Commission could think of, and ignores the subsidiarity principle. It will be more effective as a check list or set of guidelines than as a prescriptive list of things each Member State must do. Does the Commission want to spend time and resources on pursuing Member States which do not follow Annex IV to the letter?

Amendment 33

Article 31

Member States shall regularly evaluate the waste prevention programmes, and as a minimum before submitting their reports in accordance with Article 34(1).

Member States shall regularly evaluate the waste prevention programmes, and as a minimum before submitting their reports in accordance with Article 34(1). **The European Environment Agency shall include a review of progress in the completion and implementation of such programmes in its annual report.**

Justification

The EEA needs to be brought into play to help the Commission and Parliament find out what is going on continuously on the ground. Member States can easily evade surveillance by simply delaying the submission of their reports to the Commission. According to Directive 91/692/EEC, Member States had to submit their periodic reports on the existing Waste Framework Directive by 30 September 2004. By 31 December 2004, only 9 had done so. They were Germany, Denmark, Greece, Finland, Portugal, Sweden, the Czech Republic, Slovenia and Slovakia.

Amendment 34

Article 35

The Commission shall, in accordance with the procedure referred to in Article 36(2), adopt the amendments necessary for adapting **the** Annexes to scientific and technical progress.

The Commission shall, in accordance with the procedure referred to in Article 36(2), adopt the amendments necessary for adapting Annexes **III and IV** to scientific and technical progress.

Justification

This is necessary if the Parliament is to restrict resort to the comitology procedure.

Amendment 35

Article 36, paragraph 3 a (new)

3a. When adopting measures in accordance with this Article, the Commission shall:
(a) carry out appropriate consultation with stakeholders;
(b) provide a clear timetable;
(c) ensure the harmonisation of the rules of procedure for all comitology processes foreseen in this Directive;
(d) ensure the enforceability of the procedure;
(e) ensure public access to procedural documents.

Justification

Parliament already has a limited right of scrutiny of comitology decisions. But to the wider public, and particularly to those whose interests may be greatly affected by decisions taken in comitology, this is a form of "secret" law-making that is very unsatisfactory. The way in which Decision 1999/468/EEC works is now under discussion, and procedures may change.

The amendment puts down a marker for how the procedure needs to be made more democratic and transparent.

Amendment 36
Annex I, point D 7

D7 Release into seas/oceans ***including sea-bed insertion***

D7 Release into seas ***and*** oceans ***as permitted under the OSPAR Convention***

Justification

The European Community is a signatory of the 1992 OSPAR Convention, which was approved by the Council in its Decision of 7 October 1997 (98/249/EC). Article 3 of Annex II of OSPAR prohibits “dumping of all wastes or other matter” at sea except for dredged material, inert natural material, sewage sludge (until 31 December 1998), fish waste, and waste from vessels and aircraft until 31 December 2004. Sea-bed insertion within D7 is also included within the scope of OSPAR.

Amendment 37
Annex I, point D 11

D11 Incineration at sea

deleted

Justification

The OSPAR Convention bans incineration at sea from the date that the European Community became a signatory to it – 7 October 1997.

Amendment 38
Annex II, point R 1, paragraph 2, indents 1 and 2

- ***0.60*** for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009,

- ***0.65*** for installations permitted after 31 December 2008,

- ***0.45*** for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009,

- ***0.50*** for installations permitted after 31 December 2008,

Justification

The text proposed by the Commission would mean the reclassification of a large number of incinerator operations; it is reported that the application of the proposed threshold would

disrupt waste operations with no guaranteed gain in terms of resource use or reduction of waste. The dates and efficiency levels proposed will cut across local authority contracts and arrangements in a number of countries and make the landfill directive's targets more difficult to reach.

Although there is a case for introducing energy efficiency targets here the Commission's text is unsupported by any Impact Assessment. Such an Assessment is much needed. We need to know the cost of conversion for existing plants - if conversion of existing plant to meet the proposed energy efficiency standards is possible. We also need to know how many plants are likely to fail to meet the energy efficiency standards and where they are.

The rapporteur's amendment shows how it is possible to modify the efficiency standards to allow more existing incinerators to qualify as recovery operations. It too, if adopted in committee, will need an Impact Assessment.

An alternative would be to have no figure specified at all and to rely on reference to the application of Best Available Techniques. But these would be very difficult to monitor and enforce.

EXPLANATORY STATEMENT

This Directive carries forward the debate begun by the first EU Waste Directives in the 1970s and given greater focus by the Landfill Directive of 1999. The questions for our times are how do we reduce the amount of waste that our increasing prosperity encourages us produce, and how do we now need to change our policies so that we deal with waste primarily as a resource from which value can be extracted, rather than as a residue that can only be stored in a landfill.

Given the number of Court of Justice cases that have arisen on the interpretation of EU waste law to date, the first thing we should try to ensure is that whatever law we finally adopt establishes certainty - about definitions and policy intentions. This is why the rapporteur has suggested a number of additions to Article 3 and a consolidation there of definitions appearing elsewhere in the Directive.

The rapporteur has received many representations about the need for the Directive to contain a reference to the waste hierarchy in its fullest - 5 stage - form. It is important to remember that the hierarchy has no legal force. However stating it sends out a signal about priorities and, in the case of this directive, resolves what is rather a confusingly drafted Article (Article 1). It is, however, immediately clear that allowance must be made for departures from the hierarchy when conditions demand it. The question is: what conditions? The rapporteur's suggestions are contained in the last part of the amendment to Article 1. There seems to be a consensus that departures should be based on life-cycle thinking/analysis/assessment, and a cost-benefit analysis has to fit in there somewhere. The question is how rigorous a clearance/approval on this basis would have to be: would a Member State operate clearance procedures on a case-by-case basis? Would there be a reference to the Commission each time? Perhaps, the best course - or at least one suggestion - is contained in the rapporteur's idea that the Commission might establish guidelines as to how life cycle analysis might work.

Then there is the question of what happens next. We need further action to determine which waste streams will be covered by the provisions of Article 11 and moved from categorisation as waste to classification as a product. The rapporteur's amendment to Article 11, new paragraph 3a, sets out an agenda for future action by the Commission.

On the question of procedure, the rapporteur concludes that there is far too great a reliance in the directive on the use of the comitology process, as set out in Council Decision 1999/468/EC. The Directive contains 11 references in various articles to decisions that are to be referred to the comitology process. But a distinction needs to be made between using comitology for technical adaptations, and mis-using it to take decisions of a more general, highly political nature, that are best taken through the co-decision process. For this reason, the rapporteur is suggesting that we move to the co-decision procedure in article 5 (to establish efficiency criteria), in article 11 (to establish criteria for when waste becomes a product) and in article 21 (minimum standards for permits.)

Changes to the Comitology process are certainly under discussion but the rapporteur is not optimistic that they will add up to more powers for MEPs to veto a decision, or to more involvements by outside interests. It suits the Member States and Commission to keep the process as closed as possible. That is why we must resolutely resist its inappropriate

encroachment on democratic decision taking.

The Directive encompasses the existing directives on hazardous waste and waste oils. The rapporteur considers that it does this adequately and safely: she would be resistant to reversing the process of simplification to re-build these directives in their entirety. She has, however, included one amendment to article 18 in the direction of the promotion of waste oil regeneration.

The question of what will qualify under the Directive as a recovery process and what will qualify as a disposal process is a vital one. The Directive introduces a qualification based on efficiency criteria in article 5. The criteria are set out in Annex II, section R1. Neither the Directive, nor the thematic strategy nor the impact assessment attached to it gives any details at all of the likely economic and social impact of the application of these criteria. Yet they are vital: an incinerator that qualifies as a recovery operation can deal with imported waste, and can be part of a strategy for meeting recovery targets in such EU legislation as the packaging Directive. An incinerator that qualifies as a disposal operation has no such options. Given the short time scale before the new standards are supposed to apply, it seems unlikely that existing operators could adjust their processes in time. The new criteria are highly likely to cut across existing contracts and may damage jobs and local authority waste plans.

Evidence from France suggests that out of a total of 85 existing plants, only 14 could satisfy the recovery criteria chosen. Before the Committee votes it needs to know more details of the impact of what is proposed. It cannot be right that at a time when the air is thick with suggestions for making impact assessment more efficient, we should miss such an assessment out completely on this crucial aspect of the Directive.

Finally, the Directive contains two sets of proposals for waste plans and programmes. The rapporteur's amendments retain the overall objective of encouraging planning for waste plans and prevention programmes. But the changes proposed make the detailed requirements less bureaucratic and better matched, in tune with the principle of subsidiarity, with differing local conditions. We should also ask what precisely the Commission is going to do with the plethora of plans and programmes that it will now have to monitor. Such continuous monitoring is better left to the work of the European Environment Agency. The Agency is not mentioned in the Directive but should surely play a key role in ensuring that Member States are broadly in step with each other in the war against waste and for the better use of resources.