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OPINION

of the Committee on Industry, Research and Energy

for the Committee on the Environment, Public Health and Food Safety

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))

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SHORT JUSTIFICATION

The revision of directive 75/442/EEC which has been submitted to Parliament undoubtedly seeks to update some aspects, such as introducing environmental objectives and remedying shortcomings in the definitions and other concepts which, in the view of many sectors and experts, are one of the weak points of the previous directive.

In addition to these clearly stated objectives there are other proposals: (1) to simplify the current legal framework; (2) to propose repeal of Directive 75/439/EC on the disposal of waste oils and Council Framework Directive 91/689/EEC on hazardous waste. There is also a clear intention throughout the text not to perpetuate the hierarchies of waste and prioritisation which have been an essential feature of EU waste policy in previous decades.

This urge towards simplification is particularly worrying in the case of the directive on hazardous waste, a directive that society had accepted and applied with relative success. Its repeal could leave a vacuum without sufficient safeguards in one of the sectors most fraught with risks. If there is a proposal for prioritisation, we consider that this should be the first and clearest. With regard to waste oil, our proposal takes account of its usefulness and the need not to harm the existing industry and market.

The main reason to revise the legislation is the numerous judgments issued by the Court of Justice in Luxembourg against various countries for failure to transpose the European legislation, or their slowness in doing so, or what could be called an insufficient definition of the basic concepts in the previous directives. In effect, one of the innovations in this proposal is that new definitions have been drawn up in line with best practices. This concern is recognised by some of the Member States and sectors involved, which have serious misgivings about the definitions in Articles 3 and 5, fearing that once more the directive may generate legal uncertainty. This proposal, while seeking to remedy some deficiencies, has added others. For all the definitions, the reference text has been the definitions drawn up by the Court of Justice in its explanations of decisions.

Another innovation in this draft directive is the environmental impact of waste, including two assessments: risks posed by waste to health and the environment, and also the energy costs of recycling and recovery. Thus a new **concept (the 'life cycle')** has been introduced, which must be taken into account before decisions are taken on the alternatives which exist to deal with waste. The life cycle approach must specifically include assessment of energy costs. Although on paper the life cycle assessment is very 'good', and it seems logical to include energy costs in the decision-making process, the reality is much more complex, and it can become a particularly dangerous criterion. Therefore in one recital and article we call for a scientific study of the definition of the life cycle, and for diverse and flexible proposals depending on types of waste, territories, transport, calorific capacity, economic measures, etc and for the Member States to be responsible for carrying this out, since in each case they have expert knowledge of existing waste, costs and technical capacity.

The fundamental question in this directive is whether the priority should lie in recovery and recycling rather than disposal. A major industry and market for recycling and recovery has developed in Europe in the last 30 years and it seems logical that this new directive should not interfere with this process by giving priority to disposal. On the other hand, another view maintains that energy expenditure must be reduced, and the possibility of producing energy

from waste obliges us to consider disposal as an alternative which in future could replace some recycling operations. Certainly we cannot forget that the main objective of this directive is to reduce as far as possible the risks associated with waste, prevent its creation and make the maximum possible use of resources and products, which means that the disappearance of previous or current waste dumps, and the recovery or removal of them is a priority. Consequently, the figures for energy recovery which should come from scientific studies in which each category of products is analysed, must be taken into account.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 Recital 2	
<p>(2) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the sixth Community Environment Action Programme calls for development or revision of the legislation on wastes, including, inter alia, clarification of the distinction between waste and non-waste and development of adequate criteria for the further elaboration of Annexes IIA and IIB to Directive 75/442/EEC.</p>	<p>(2) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the sixth Community Environment Action Programme calls for <i>developing and implementing measures on waste prevention and management by, inter alia, developing a set of quantitative and qualitative reduction targets covering all relevant waste, to be achieved by 2010; encouraging ecologically sound and sustainable product design; the formulation of operational measures to encourage waste prevention, e.g. by stimulating re-use and recovery, the phasing out of certain substances and materials through product-related measures; the</i> development or revision of the legislation on wastes, including, inter alia, <i>construction and demolition waste, biodegradable wastes,</i> clarification of the distinction between waste and non-waste and development of adequate criteria for the further elaboration of Annexes IIA and IIB to Directive</p>

¹ Not yet published in OJ.

Justification

The Commission cherry-picked only a few of the priority actions for the pursuit of the objectives laid down in Article 8 of the 6EAP on the sustainable use and management of natural resources and wastes. It is important to fully represent the priority actions of the 6EAP that are applicable here.

Amendment 2
Recital 6 a (new)

(6a) An analysis should be carried out of the life cycle of categories of products and materials, taking account of the novelty and complexity of that concept. The criteria should be economic and environmental, including factors such as transport, energy expenditure, technologies that may be used and their cost, from a purely scientific point of view. All those concerned – industry, public administrations and consumers – should participate in drawing up the criteria.

Amendment 3
Recital 10 a (new)

(10a) Waste legislation should aim at reducing the use of natural resources, and foster the application of the waste hierarchy.

Justification

Waste hierarchy should be the ground for waste policy as it is based on environmental considerations. Therefore to apply waste hierarchy leads to environmental gains, contribute to the efficient use of natural resources and the reduction of energy dependency, by promoting the minimization of waste production and the material recycling of wastes.

Amendment 4
Recital 17 a (new)

(17a) Member States should be free to invoke and apply the principles of proximity and self-sufficiency to waste destined for incineration with energy recovery, so as to allow for adequate planning of treatment capacity and to ensure that combustible waste produced within their territory is given access to national incineration facilities.

Amendment 5
Recital 18 a (new)

(18a) Hazardous waste is defined on the basis of risk and risk criteria, hence it must be regulated by means of strict specifications designed to prevent or to limit to the greatest possible extent the harmful effects which inappropriate management may have on the environment and to provide protection against risks to security and human health. On account of its hazardous properties, hazardous waste requires appropriate management involving suitable specific collection and treatment techniques, special checks and a traceability scheme. All hazardous-waste operators must have suitable skills, training and permits.

Justification

Hazardous waste is not just ordinary waste - it has its own special characteristics which should be spelt out in the interests of safety and legal clarity.

Amendment 6
Recital 20

(20) *Since the* priority given to regeneration in Council Directive 75/439/EEC of 16 June 1975 *on the disposal of waste oils no longer reflects a clear environmental benefit, that Directive should be repealed.* However, as the separate collection of waste oils remains crucial to their proper management and the

(20) *The* priority given to regeneration in Council Directive 75/439/EEC of 16 June 1975 *should be maintained, despite the repeal of that directive.* However, as the separate collection of waste oils remains crucial to their proper management and the prevention of damage to the environment

prevention of damage to the environment from their improper disposal, the collection obligation for waste oils should be integrated into the present Directive. Directive 75/439/EEC *should* therefore be repealed.

from their improper disposal, the collection obligation for waste oils should be integrated into the present Directive. Directive 75/439/EEC *is* therefore *to* be repealed.

Justification

Repeal of the directive as part of the 'better lawmaking' policy does not imply that the aims it sought must not be maintained.

Amendment 7 Article 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.

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.

1. This Directive lays down measures with a view to **improving the sustainable use of resources and mitigating the** environmental impacts of the generation and management of waste.

2. It instructs the Member States to take measures, **in descending order of priority, for:**

(a) prevention or reduction of waste production;

(b) re-use of waste;

(c) recycling of waste;

(d) other recovery operations;

(e) disposal of waste.

3. On the basis of environmental criteria adopted at Community level, Member States may, after carrying out a life cycle analysis and an economic impact study for a relevant category of waste, take measures that derogate from the priorities established in paragraph 2.

4. Until such criteria are adopted and where an impact assessment indicates clearly that one of the treatments referred to in paragraph 2 shows a better record for a specific waste category, Member States may, in a similar manner, take measures

that derogate from the priorities established in paragraph 2.

5. Responsibility for validating the results of the assessments referred to in paragraph 4 shall lie with the competent national authorities. The validated results shall be reported to the Commission and shall be the subject of a review in accordance with the procedure referred to in Article 36(2).

Or. en

Amendment 8
Article 1, paragraph 2 a (new)

Furthermore, it makes provision whereby Member States shall take the necessary measures to require that the production, collection and/or transport, storage and treatment of hazardous waste shall be carried out in conditions which allow optimum environmental protection and safety for operators, industrial plants and the general public.

Justification

Because specific attention needs to be paid to hazardous waste, it should be highlighted in a separate objective to be added to article 1. The objective proposed deals not only with environmental protection but also with health and safety.

Amendment 9
Article 2, introductory phrase

This Directive shall not cover ***gaseous effluents emitted into the atmosphere.***

This Directive shall not cover

- a) gaseous effluents emitted into the atmosphere,***
- b) the soil,***
- c) by-products within the meaning of Article 3,***
- d) secondary raw material (products, materials, substances) and***

e) the process-related use within the plant of production residues.

Justification

Industrial by-products do not constitute waste and should therefore be excluded from the scope of this directive. Restructuring is necessary in order to adopt a systematic approach. In complex production processes it is, moreover, beneficial in terms of saving resources, both for economic and environmental reasons, for production residues that are generated on-site to be used again in suitable production processes. Such substances or materials, which are used in a closed material cycle within a plant, never become waste.

Amendment 10

Article 2, paragraph 4 a (new)

4a. Specific rules governing particular cases, or supplementing the rules laid down in this Directive, concerning the management of particular categories of waste may be laid down by means of individual Directives.

Amendment 11

Article 2, paragraph 4 b (new)

4b. It shall not cover the use of sludge in accordance with Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture¹.

¹ OJ L 181, 4.7.1986, p. 6.

Justification

The recycling of sludge for agricultural use, after appropriate processing, should be exempted from this Directive since it is already covered by Council Directive 86/278/EEC on the protection of the environment, and in particular of the soil. That Directive covers the processing of sludge in such a way as to prevent any possible detrimental effects on soil, plants, animals and humans. Overlapping of the two Directives should be avoided.

Amendment 12
Article 3, point (c)

(c) ‘holder’ means *the producer or* the natural or legal person who is in possession of the waste;

(c) ‘holder’ means the natural or legal person who is in possession of the waste;

Justification

The holder must be the person who is in possession of the waste at the time, not its producer.

Amendment 13
Article 3, point (c a) (new)

(ca) ‘dealer’ means any person who acts in the role of principal in the purchase and subsequent sale of waste, including such dealers who do not take physical possession of the waste;

Amendment 14
Article 3, point (c b) (new)

(cb) ‘broker’ means anyone who arranges the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

Amendment 15
Article 3, point (d)

(d) ‘management’ means the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

(d) “management” means the collection, transport, ***treatment***, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

Justification

Treatment is part of the waste management process and may be a separate operation to recovery and disposal.

Amendment 16 Article 3, point (e a) (new)

(ea) 'prevention' means any action that is taken before products or substances have become waste and is aimed at reducing the production of waste or its harmfulness, or the environmental impact of resource use in general;

Amendment 17 Article 3, point (g)

(g) 'recycling' means the recovery of waste into products, materials or substances whether for the original or other purposes. It does not include energy recovery;

(g) 'recycling' means ***a process which takes place after the production process and involves the recovery of waste, by means of disassembly, separation or other production processes, into products, materials or substances serving as secondary raw materials, whether for the original or other purposes. It does not include energy recovery;***

Amendment 18 Article 3, point (g a) (new)

(ga) 'recovery' means any treatment operation that:

- results in the waste serving a useful purpose by replacing, whether in the plant or in the wider economy, other resources which would have been used to fulfil that function, or by being prepared for such a use;

- meets efficiency criteria on the basis of which it may be considered to have resulted in a useful purpose;

- ensures that the overall environmental impact is not worsened by the use of waste as a substitute for other resources;

- ensures that pollutants are not transferred during the process into the final product;

Amendment 19
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) ‘waste oils’ means any 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

These days, waste oils comprise a mixture of mineral and synthetic oils and the definition should be adapted accordingly.

Amendment 20
Article 3, point (h b) (new)

(hb) ‘secondary raw materials’ means products, materials and substances recovered from waste which have market value;

Amendment 21
Article 3, point (i)

(i) ‘treatment’ means recovery or disposal.

(i) “treatment” means recovery or disposal **and preparation for recovery or disposal resulting in a change in the nature or composition of the waste.**

Justification

Waste preparation which results in a change in the nature or composition of the waste is treatment and as a result part of waste management, so it needs to be included in the treatment definition. This wording is consistent with article 3 (b) on the producer definition.

Amendment 22
Article 3, point (i a) (new)

(ia) ‘agent’ means anyone who acts on behalf of another to buy and sell waste.

Justification

This retains the concept of someone who negotiates on behalf of someone else and is not necessarily in possession of the product.

Amendment 23
Article 4, paragraph 1

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

The existing list of wastes ***in Commission Decision 2000/532/EC of 3 May 2001¹*** shall be ***revised if necessary*** by the Commission, in accordance with the procedure referred to in Article 36(2).

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

Justification

The list - which has been rendered necessary by the current directive - already exists. It has proved effective and it may need to be updated, but it does not need to be completely replaced

Amendment 24
Article 5, Title

Justification

In order to act in accordance with the hierarchy, it is important to include the minimisation of residual waste that cannot be reused or recycled into the hierarchy.

Amendment 25
Article 5, paragraph 1

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.

1. ***Without prejudice to Article 1(2) and Article 6(1)***, Member States **should** 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.

Justification

Recovery needs to be done according to the waste hierarchy. There are a number of waste streams for which, for various reasons, recovery is not possible. Without a reference to Article 6(1), Member States would be obliged to recover all waste.

Amendment 26
Article 5, paragraph 1, subparagraph 1 a (new)

Further recovery operations may be added to the list of operations set out in Annex II, on the basis of a Commission proposal to the Council and the European Parliament.

Justification

The Commission should have a pro-active role in this area, so as to enable the list to be adapted in line with developments in technology.

Amendment 27

Article 6, paragraph 1, subparagraph 1

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

1. Member States shall ensure that **waste which has not been able to be recovered** in accordance with Article 5(1) undergoes disposal operations.

Justification

There is no procedure capable of demonstrating that recovery is not possible. Further recovery is always possible if the economic and environmental costs are disregarded and if market prospects for the recovered material are ignored. Hence the disposal requirement must be imposed in respect of any waste which has not been able to be recovered.

Amendment 28

Article 6, paragraph 3

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 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.**

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, **this specific operation shall be added to the list contained in Annex I on a proposal from the Commission to the European Parliament and the Council in accordance with the procedure referred to in Article 21.**

Justification

The purpose of this amendment is to apply the codecision procedure to a political issue and thereby to restore consistency within the text, in particular with the amendment to Article 5 which has been suggested by the rapporteur. Applying codecision to Article 5 and comitology to Article 6 could result in contradictory decisions: a specific operation could involve recovery under codecision and disposal under comitology.

Amendment 29

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 *endeavour to* ensure that the *processes of* recovery or disposal of waste *are* carried out *with the greatest possible attention to*:

- (a) *protecting public* health;
- (b) *protecting* the environment (*including water, air, soil, animals, plants, countryside or places of special interest*);
- (c) *preventing nuisance through noise or odours*.

Justification

The objectives for the implementation of legislation on waste must be realistic with regard to the available measures; the undesirable effects of an activity cannot be entirely eliminated.

Amendment 30

Article 8

Member States shall ensure that any holder of waste carries out its recovery or disposal himself or has its recovery or disposal handled by an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector.

Pursuant to the ‘polluter pays’ principle the Member States shall ensure that any holder of waste carries out its recovery or disposal himself or has its recovery or disposal handled by an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector.

Justification

Reference must be made to the ‘polluter pays’ principle, which has always played an essential role in waste management. It forms part of Directive 75/442/EC and the amended versions thereof and it must be mentioned at this stage.

Amendment 31

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.

In accordance with the ‘polluter pays’ principle the cost of waste management must be borne by:

- the holder of the waste collected or managed by a collector or by an enterprise, and/or*
- the previous holders, and/or*
- the producer of the product from which the waste is derived.*

Justification

The current directive is clearer as regards costs and this amendment is based on Article 15 thereof. Its purpose is to:

- re-introduce the ‘polluter pays’ principle;*
- ensure that costs are ‘borne’ and not ‘allocated’ by the Member States;*
- ensure that costs are borne by the producer of the waste and are upstream as far as the producer of the product and not downstream of the producer of the waste;*
- ensure that the costs cover not only recovery and disposal but also the overall costs of waste management (such as the cost of collection).*

Amendment 32

Article 10, subparagraph 1

Each Member State shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of disposal installations, taking account of the **best available** techniques **within the meaning of Article 2(11) of Directive 96/61/EC, hereinafter “best available techniques”**.

Each Member State shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of disposal installations, taking account of the **most efficient and viable** techniques.

Justification

Suitable techniques for the treatment of waste, including disposal, must be appropriate to the place and they should be chosen on the basis of economic, environmental and public health criteria.

Amendment 33
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. The Commission shall determine or request Member States to determine whether a given waste has ceased to be a waste, on the basis that:

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

- (a) **such** reclassification would not lead to overall negative environmental impacts **and**
- (b) a market exists **or would exist** for such a secondary product, material or substance.

Justification

Re-worded for more clarity. Some waste materials (i.e. wood waste) are a source for environmental friendly energy production. Adaptation of such materials must be taken in the enumeration of actions. Special attention needs to be given to the swift reclassification of such waste materials. The Commission has the last word on the determination of 'waste' classification.

Amendment 34
Article 11, paragraph 1, point (b a) (new)

(ba) the secondary product, material or substance has undergone treatment and is about to enter a new cycle as a secondary raw material with properties similar to those of virgin products, materials or substances.

Amendment 35
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 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.**

2. **By ... ***, on the basis of its assessment pursuant to paragraph 1, the Commission shall **submit - if necessary - a legislative proposal setting out the environmental criteria to be met in order for product, material or substance waste to be deemed to have become a secondary product, material or substance.**

The considered criteria are defined after the consultation of the concerned sectors of industry. The procedure sees to a democratic decision-making and the possibility of appeal. The assessment takes into account all relevant aspects, including the entire supply chain from the origin of the substance, product or material to the final application, recovery or disposal.

**** Two years from the date of entry into force of this Directive***

Justification

The question of knowing which 'sister directives' should stem from this directive and the question of knowing what form those directives should take are political in nature, hence they should be covered by the codecision procedure. The requirements applying to secondary products should not be more stringent than those applying to the similar primary products which they replace.

Amendment 36
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,*
- *Solid Recovered Fuel (SRF).*

**** Five years from the date of entry into force of this Directive**

Justification

These are the most urgent candidates for new proposals. In particular for SRF, its inclusion into the urgent candidates is due because some Member States have already developed and consolidated an environmentally sustainable industrial usage of quality-SRF in coal-powered power plants and cements kilns. Quality SRF substitutes, in part, the fossil fuel (coal) used in such plants.

Amendment 37
Article 11 a (new)

Article 11a

Knowledge and traceability of hazardous waste

- 1. Before it is accepted at a waste-treatment plant, each consignment of hazardous waste shall be subjected to a specific procedure designed to establish the risks and the treatment to be applied.***
- 2. Any admission of hazardous waste to a site shall be governed in accordance with a specific procedure in order to ensure that the waste concerned does indeed display the same properties as the waste approved during the acceptance procedure.***
- 3. Any producer, collector or holder of hazardous waste who transfers that waste to a treatment plant shall make available a specific notification and movement document accompanying the waste from the place at which it was produced to its destination.***

4. The reporting requirements laid down in Article 5 of European Parliament and Council Regulation (EC) No 166/2006 of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register¹ shall apply to all producers of hazardous waste and all operators of plants at which such waste is treated.

¹ OJ L 33, 4.2.2006, p. 1.

Justification

Knowledge and traceability of hazardous waste are essential if such waste is to be processed in optimum fashion and without jeopardising security and the environment.

(1) The nature of the waste must be known before the waste is accepted and each consignment must be checked in order to ensure that the waste corresponds to what has been accepted.

(2a) A notification and movement document constitutes a valuable traceability tool.

(2b) The reporting requirement is laid down in the E-PRTR rules but the Annex does not cover all producers of hazardous waste and all treatment plants.

Amendment 38

Article 14, paragraph 1

1. A Member State **may treat** waste as hazardous where, even though it does not appear as such on the list of wastes referred to in Article 4, hereinafter “the list”, it displays one or more of the properties listed in Annex III.

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 all relevant information.

1. **Where a** Member State **considers that** waste **should be treated** as hazardous, even though it does not appear as such on the list of wastes referred to in Article 4, (hereinafter “the list”), **and** it displays one or more of the properties listed in Annex III **the** Member State shall **immediately** notify any such cases to the Commission and shall provide the Commission with all relevant information.

Justification

A decision on whether waste is to be declared hazardous or not must be notified to the Commission before a Member State takes specific measures, in line with EU policies on harmonisation of chemical and hazardous products.

Amendment 39
Article 15, paragraph 1

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.**

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.

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 **immediately** notify the Commission thereof and provide the necessary evidence.

Justification

A decision on whether waste is to be declared hazardous or not must be notified to the Commission before a Member State takes specific measures, in line with EU policies on harmonisation of chemical and hazardous products.

Amendment 40
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 establishments or undertakings dealing with hazardous waste not to mix different categories of hazardous waste or to mix hazardous waste with non-hazardous waste.**

Justification

At all times, hazardous waste should be kept separate from non-hazardous waste.

Amendment 41
Article 16, paragraph 1 a (new)

1a. A mixing operation without chemical reaction should, under no circumstance, lead to a declassification of a hazardous waste to a non-hazardous waste and/or to a declassification of a Persistent Organic Pollutants (POP) containing waste to a non-POP-containing waste.

Justification

Article 16 proposals linked with rules of “mixing” need to be strengthened in order to apply to these operations IPPC permit and safety rules to avoid hazardous waste declassification.

Amendment 42
Article 16, paragraph 2

2. Subject to technical and economical feasibility criteria to be determined by the Member States, where hazardous waste has been mixed, in a manner contrary to paragraph 1, with other hazardous waste possessing different properties or with other wastes, substances or materials, separation shall be effected where necessary in order to comply with Article 7.

2. Where hazardous waste has been mixed, in a manner contrary to paragraph 1, with other hazardous waste possessing different properties or with other wastes, substances or materials, separation shall be effected where necessary in order to comply with Article 7, ***taking account of the need for traceability of the various substances or materials.***

Justification

In the case of hazardous waste that has been mixed, traceability must be established so that it can be monitored.

Amendment 43
Article 18

Mineral waste oils

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.

Specifications concerning waste oils

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 waste oils are collected **separately and are** handled **and treated** in accordance with Articles 7, 19 and 20 of this Directive and with the provisions laid down in European Parliament and Council Directive 2000/76/EC of 4 December 2000 concerning the incineration of waste¹. Collectors of waste oils shall submit an application for specific authorisation which shall be dealt with by means of a suitable procedure.

¹ OJ L 332, 28.12.2000, p. 91.

Justification

Waste oils continue to be a major source of pollution.

The extreme fragmentation of the market makes the checking process complex. The consistent progress which has been made thanks to the 1975 directive must not be jeopardised by the repeal of the directive on waste oils. The new framework directive must therefore include explicit provisions on this topic: collection must continue and treatment plants must operate under IPPC or some other specific authorisation, and plants which burn waste oil must comply with the directive on the incineration of waste.

Amendment 44
Article 18, paragraph 2 (new)

Provided that there are no obstacles of a technical, financial or organisational nature, Member States shall take the necessary measures to give priority to the processing of mineral waste oils through regeneration.

Justification

Repealing Directive 75/439/EEC in order to simplify the legislation should not automatically imply abandoning the priority given to regeneration. The amendment reinstates the relevant provision of Directive 75/439/EEC. The recycling of waste is a general principle of European environment policy and it should therefore also apply to mineral oils (good quality products which help to deal with our energy problem), retaining regeneration as the priority. Unless clear priority is given to regeneration, combustion will be put forward as a simpler solution.

Amendment 45

Article 19, paragraph 1, last sentence

Permits may specify additional conditions and obligations.

Permits may specify additional conditions and obligations ***such as requirements regarding the quality of the treatment.***

Amendment 46

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 may, in accordance with ***a procedure in which the relevant actors are involved and after carrying out an impact assessment of the proposed measures***, adopt minimum standards for permits designed to ensure that the waste is treated in an environmentally sound manner.

Member States may set higher standards for permits on the basis of a national assessment of needs and the principle of proportionality and in accordance with the Treaties.

Amendment 47

Article 24

Hazardous waste

Terms and conditions for authorising hazardous-waste treatment plants

In the case of hazardous waste, Member States may allow the exemption under Article 22 only of establishments or undertakings that carry out recovery

All hazardous-waste treatment plants must hold an authorisation issued in accordance with Directive 96/61/EC.

operations.

In addition to the general rules provided for in Article 23(1), the Member States shall lay down specific conditions for exemptions relating to hazardous waste, including limit values for the content of hazardous substances in the waste, emission limit values, types of activity, as well as any other necessary requirements for carrying out different forms of recovery.

Without prejudice to Directive 96/61/EC, an application for authorisation from the competent authorities shall include a description of the planned measures intended to ensure that the plant is designed, equipped and operated in accordance with the categories of waste treated and the associated risks.

The authorisation issued by the competent authorities shall state:

- the amounts and the categories of hazardous waste treated,

- the technical specifications designed to ensure that waste is treated in optimum fashion without harming the environment and at the same time providing a high level of security.

Where the operator of a non-hazardous-waste treatment plant intends to carry out operations involving hazardous waste, this shall be regarded as a substantial change under the terms of the definition laid down in Article 2(10)(b) of Directive 96/61/EC ; Article 12(2) of that same directive shall then apply.

Justification

Pursuant to the IPPC directive, hazardous-waste treatment of any kind requires authorisation. This rule should apply strictly to each and every individual who carries out operations involving hazardous waste.

The first part of this amendment is concerned with obtaining IPPC authorisation. The second part describes some of the information which the authorisation should include. The final part is intended to ensure that an operator who normally treats non-hazardous waste is required to apply for further authorisation if he wishes to accept hazardous waste.

Amendment 48

Article 26, paragraph 1, subparagraph 1

Member States shall ensure that their

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.

competent authorities establish, in accordance with Article 1, one or more waste management plans, which shall be revised at least every **four** years.

Amendment 49
Article 26, paragraph 4

4. Waste management plans shall be in accordance with the waste planning requirements laid down in Article 14 of Directive 94/62/EC and the strategy for the reduction of biodegradable waste going to landfills, referred to in Article 5 of Directive 1999/31/EC, including significant awareness raising campaigns **and the use of economic instruments**.

4. Waste management plans shall be in accordance with the waste planning requirements laid down in Article 14 of Directive 94/62/EC and the strategy for the reduction of biodegradable waste going to landfills, referred to in Article 5 of Directive 1999/31/EC, including significant awareness raising campaigns.

Justification

The 'use of economic instruments' has neither been defined nor examined in detail to date. Such instruments could possibly have undesirable effects or lead to price rises for 'green' alternatives which do not reflect environmental friendliness factors.

Amendment 50
Article 29, paragraph 1, subparagraph 1

Member States shall establish, in accordance with Article 1, waste prevention **programmes** no later than [three years after the entry into force of this Directive].

Member States shall establish, in accordance with Article 1, **programmes of technical and organisational** waste prevention **measures** no later than [three years after the entry into force of this Directive]. **The programmes shall be revised at no more than four-yearly intervals.**

These programmes and the measures therein should, as a minimum requirement, aim for the stabilisation of waste generation by 2010 and further significant reductions in generation by 2020.

Amendment 51
Article 30, paragraph 2

2. Member States shall determine specific qualitative and quantitative targets **and indicators for any measure or combination of measures adopted in order** to monitor and assess the progress **of** individual measures.

2. Member States shall determine specific qualitative and quantitative targets. **The Commission may, in accordance with the procedure referred to in Article 36(2), establish quantitative and qualitative indicative targets and general indicators that will be used by Member States** to monitor and assess the progress **achieved through** individual measures.

Amendment 52
Article 30, paragraph 2 a (new)

2a. Member States shall as a minimum take the following measures:

a) The promotion of reusable packaging through establishing appropriate distribution and take-back systems, including if necessary, the use of taxes or deposits

b) The promotion of repair of products as an alternative to discarding, through the establishment of repair facilities.

c) The provision of information on waste prevention techniques through the establishment of national centres for identification and promotion of information for achieving cleaner and less wasteful products, technologies and distribution systems with a view to facilitating the implementation of sectoral Best Practice benchmarks (similar to the UNEP Cleaner Production Centres) suitable in particular for SMEs

d) The use of sectoral requirements in order that the relevant businesses or industrial sectors set their own waste prevention plans or objectives or correct wasteful products or packaging.

Justification

Classification of incinerators as efficient or inefficient in energy terms will have a great impact on these installations and the legislation that directly affects them, in the same way as other legislation such as the directive on landfill. The Commission must therefore carry out a study on waste as an energy source and the setting of thresholds.

Amendment 57
Annex IV, point 1

1. The use of planning measures, or other economic instruments affecting the availability and price of primary resources. *deleted*

Justification

Economic instruments would not encourage the production of steel from steel scrap in place of iron ore, but would, rather, only have a negative impact on a well-functioning market and an already existing recovery chain. See also amendment to Article 26(4).

Amendment 58
Annex IV, point 11

11. Economic instruments such as incentives for clean purchases or the institution of an obligatory payment by consumers for a given article or element of packaging that would otherwise be provided free of charge. *deleted*

Justification

See amendment to Article 26(4).

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council on waste			
References	COM(2005)0667 – C6-0009/2006 – 2005/0281(COD)			
Committee responsible	ENVI			
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Drafts(wo)man Date appointed	Cristina Gutiérrez-Cortines 26.1.2006			
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Result of final vote	+: 37 –: 6 0: 0			
Members present for the final vote	John Attard-Montalto, Šarūnas Birutis, Jan Březina, Philippe Busquin, Jerzy Buzek, Pilar del Castillo Vera, Jorgo Chatzimarkakis, Giles Chichester, Den Dover, Lena Ek, Nicole Fontaine, Adam Gierek, Norbert Glante, Umberto Guidoni, András Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Erna Hennicot-Schoepges, Ján Hudacký, Romana Jordan Cizelj, Anne Laperrouze, Eugenijus Maldeikis, Eluned Morgan, Reino Paasilinna, Aldo Patriciello, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Mechtild Rothe, Paul Rübig, Andres Tarand, Britta Thomsen, Patrizia Toia, Catherine Trautmann, Claude Turmes, Dominique Vlasto			
Substitute(s) present for the final vote	María del Pilar Ayuso González, Daniel Caspary, Neena Gill, Cristina Gutiérrez-Cortines, Edit Herczog, Lambert van Nistelrooij			
Substitute(s) under Rule 178(2) present for the final vote				
Comments (available in one language only)				