



Brussels, 8 February 2006

DRAFT OPINION
of the Commission for Sustainable Development
on the
**Communication from the Commission to the Council, the European Parliament,
the European Economic and Social Committee and the Committee of the Regions –
Taking sustainable use of resources forward:
a Thematic Strategy on the prevention and recycling of waste**
COM(2005) 666 final

Rapporteur: **Mr Laust Grove Vejstrup**
Municipal Councillor (DK/EPP)

An initial discussion of this document will be held at the DEVE commission meeting due to take place on **27 February from 11 a.m. to 6.30 p.m.**

DOCUMENT SUBMITTED FOR TRANSLATION: 27 January 2006

The Committee of the Regions,

Having regard to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – *Taking sustainable use of resources forward: a Thematic Strategy on the prevention and recycling of waste* (COM(2005) 666 final), and the Proposal for a Directive of the European Parliament and of the Council on Waste, (COM(2005) 667 final - 2005/0281 (COD));

Having regard to the European Commission's decision of 5 January 2006, taken under Article 175 and the first paragraph of Article 265 of the Treaty establishing the European Community, to consult it on this matter;

Having regard to its Bureau's decision of 12 April 2005 to instruct the Commission for Sustainable Development to draw up an opinion on this subject;

Having regard to its opinion on the Commission communication *Towards a thematic strategy on the prevention and recycling of waste* (COM(2003) 301 final – CdR 239/2003¹);

Having regard to its outlook report on the *Implementation of the Directive on the Landfill of Waste (1999/31/EC) at regional and local level* (CdR 254/2005);

Having regard to the draft opinion (CdR .../...) adopted on 2006 by the Commission for Sustainable Development (rapporteur: **Mr Laust Grove Vejstrup**, Municipal Councillor (DK/EPP);

adopted the following opinion at its ... plenary session of ... (meeting of ...):

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¹ OJ C 73, 23.3.2004, p. 63.

1. Views of the Committee of the Regions

The Committee of the Regions

General comments

- 1.1 **welcomes** the Commission's thematic strategy as this sets out an integrated and holistic approach to the waste issue that is conducive to further, necessary environmental improvements in this field;
- 1.2 **stresses** that waste policy is of fundamental importance for environment policy as a whole; hence a concerted, enhanced approach to waste policy will do much to benefit the environment;
- 1.3 **stresses** that, in the Member States, it is local and regional authorities that are responsible for implementing a major part of EU environment policy, of which waste management is a key aspect;
- 1.4 **notes** that moving away from simple waste disposal to a sustainable policy skewed towards prevention, reuse, recycling and recovery requires a substantial effort, and that local and regional authorities need additional human and financial resources to perform this task;
- 1.5 **draws attention** to the waste hierarchy, which should be the central, dominant principle of waste policy, but **notes** that this hierarchy is open to the incorporation of new aspects should these prove effective;
- 1.6 **would caution**, however, that, in a number of areas such as end-of-waste and the mixing of hazardous waste, the thematic strategy proposes relaxations of the rules that are unnecessary and inappropriate and may have an adverse impact on the environment;
- 1.7 **notes** the continued need for clear legislation, for instance in the definition of recycling and recovery;

Aims of the strategy

- 1.8 **endorses** the aims of the thematic strategy and **supports** the view that EU waste policy does have the potential to reduce the overall negative environmental impact of resource use, and that the EU's goal must be to become a recycling society;
- 1.9 **considers** the waste hierarchy to be a focus of the goals set out in the thematic strategy;

Actions outlined in the strategy

Implementation, simplification and modernisation of existing legislation

- 1.10 **feels** it makes sense for the thematic strategy to focus on existing problems of implementation, but draws attention to the need for further initiatives;
- 1.11 **endorses** the emphasis placed by the thematic strategy on the simplification and modernisation of existing legislation, provided this makes it easier to implement environmental protection measures;

The new framework directive on waste

Article 1

- 1.12 **is pleased** to note the reference to the waste hierarchy, which is considered a key starting point for any moves to tackle the waste issue, providing the very foundation upon which any sound and successful waste policy is built;
- 1.13 **laments** the fact that the waste hierarchy is being levelled down to three aspects; placing reuse, recycling and recovery on the same footing runs counter to the spirit of a number of legal acts;
- 1.14 **has its doubts** as to whether, given the article's scope for interpretation, Member States will take the necessary measures and use the best possible tools to achieve the article's objectives;

Article 2

- 1.15 **regrets** the deletion of the legal base for the adoption of legislation specifically dealing with waste streams;

Article 3

- 1.16 **notes** that, under the definition given here, anyone treating waste is always considered to be a waste producer irrespective of any changes made to the nature or composition of the waste; this is not consistent with the Commission's own end-of-waste concept;

Article 5

- 1.17 **welcomes** the clearer definition of recovery by incineration, but notes the considerable uncertainty that still persists in the definition of recovery by other forms of treatment;

Article 8

1.18 **regrets** the deletion of the reference to the polluter-pays principle;

Article 11

1.19 **is concerned** that introducing and defining the end-of-waste concept may have a far-reaching and damaging impact, i.e. that:

- it will no longer be possible to lay down treatment requirements for products that meet the end-of-waste criteria;
- products that meet these criteria will be impossible to trace;
- products that meet end-of-waste criteria will no longer be subject to binding instructions or usage requirements.

1.20 **notes** that the end-of-waste concept is limited to waste streams where this provides genuine environmental benefits, but **finds** the scope of the concept very unclear as no details are given of what is actually meant by genuine "environmental benefits";

1.21 **notes** the directive's overall aim of reducing the environmental impact of resource use and is sorry that, from now on, the Commission will be focusing its efforts on identifying waste streams that no longer pose a threat to the environment rather than those with the greatest potential for adverse environmental impact;

Article 12

1.22 **is pleased** that the directive on hazardous waste and the framework directive are being brought together into a single framework directive;

Article 16

1.23 **regrets** that the rules for separating hazardous waste only apply to treatment plants (cf. points 1(a) and 1(d));

Article 21

1.24 **welcomes** what it sees as the sensible proposal to allow the adoption of minimum standards for permits, and therefore **endorses** the provisions made in this regard;

Article 25

1.25 **welcomes** the rules on the registration of parties handling waste in its final stages;

Article 26

- 1.26 **backs** the increased requirements for waste management plans, which are seen as useful, flexible tools that can also help promote the spread of good practice in this field;

Article 30

- 1.27 **is concerned** about the fact that the Commission is leaving it up to the individual Member States to develop indicators to measure the achieved results;

Article 32

- 1.28 **endorses** the new provisions on the inspection of collectors and transporters;

Annex V

- 1.29 **considers** that correlation tables are a useful means of securing the directive's full implementation;

Introduction of life-cycle thinking

- 1.30 **thinks** that the introduction of life-cycle analyses under the thematic strategy is a useful approach, clearly demonstrating that waste is produced in many stages, but is sorry to note that the strategy focuses only to a very limited degree on the early stage of this cycle, i.e. producers and the onus that is on them to design more environmentally friendly products;

- 1.31 also **questions** how the analyses are actually drawn up. It is of crucial importance that clear guidelines be laid down to determine who is responsible for validating analyses of this kind, as, otherwise, their importance will be diminished and they will fail to fulfil their intended purpose;

Improving the knowledge base

- 1.32 **supports** the Commission in its desire to enhance knowledge and information about waste, since increased knowledge and information are key elements in improving the waste practice of producers and authorities, and in changing consumer behaviour with a view to producing less waste;

Waste prevention

- 1.33 **agrees** on the need for more ambitious waste prevention policies in the Member States and thus feels that the obligation to develop waste prevention programmes is a sensible move;

Towards a European recycling society

- 1.34 **emphasises** that the creation of a level playing field among the Member States is of key importance in preventing environmentally unsound practices like standard dumping, and therefore supports the Commission's initiative in this field;

Monitoring and evaluation

- 1.35 **notes** that the local and regional authorities play an important role in implementing the thematic strategy, and thus also have a key part to play in monitoring and evaluating it;

2. The Committee of the Regions' recommendations

The Committee of the Regions

- 2.1 **calls** for explicit mention to be made of the waste hierarchy concept in the objectives of the thematic strategy so as to clear up any remaining doubt that this is the starting point of waste policy;
- 2.2 **laments** the thematic strategy's failure to examine the impact of the transition from current waste policy to the life-cycle approach. The tools needed for this life-cycle approach, which will, over time, facilitate implementation of the new policy, are far from fully developed, and the legal uncertainty that will arise in the meantime represents a serious threat for the waste sector and may well have a major adverse impact on the environment; **calls**, therefore, for the thematic strategy to examine the impact of the transition from the end-of-pipe to the life-cycle approach, and recommends that the local and regional authorities, given their responsibility and remit in the waste sector, should be involved in framing guidelines for life-cycle analyses, and that the national authorities should be given the task of validating the findings of these analyses;
- 2.3 **criticises** the use of the committee procedure in connection with Articles 5, 6, 11, 21 and 35 of the framework directive and recommends that it be replaced by a different procedure. It is vital that the issues dealt with in these articles should be subject to a political and not only a technical debate. For example, the end-of-waste criteria are a factor in establishing the future scope of waste legislation, and the annexes are of key importance for the practical implementation of the directive. The Committee **calls for** a political decision-making procedure, involving the relevant political players, including the local and regional authorities, given their responsibility and remit in the waste sector, and for the Commission to undertake impact assessments of the proposed changes;
- 2.4 **recommends** that the end-of-waste criteria should only apply when waste has undergone treatment; this means that waste may not be removed from the waste stream unless it can genuinely be incorporated into a new goods flow;

- 2.5 **deplores** the significant loosening of the mixing ban and its replacement by conditions under which mixing may be permitted – a move that must be seen as a substantial change involving major environmental risks; and thus recommends keeping the unrestricted ban on the mixing of hazardous waste;
- 2.6 **endorses** the call to use economic instruments in waste policy, such as charges levied on materials and treatment, and notes the successful experience that has been gained with such instruments in a number of countries; **regrets**, however, the non-binding character of this call and **recommends**, not least for the effectiveness of waste policy and the conditions of competition, that the call to use economic instruments be replaced by an obligation. The existing differentiated use of economic instruments distorts competition;
- 2.7 **recommends** that the competent authorities be allocated resources commensurate with their new responsibility and remit under the thematic strategy and the directive, including the directive's provisions on the inspection of collectors and transporters;
- 2.8 **calls** on the Commission to ensure that the rules specify minimum rather than harmonised standards, as it is vital that the Member States be guaranteed the requisite flexibility, including the possibility of making standards more stringent in the interests of the environment;
- 2.9 **recommends**, with reference to Articles 4 and 13 of the framework directive, that the waste lists be drawn up on the basis of the existing lists. A clear deadline should be laid down for the drawing-up of such lists and, in order to avoid any legal doubts as to interpretation, the existing list should remain in place until a new one comes into force;
- 2.10 **recommends** that, given the environmental benefits involved, Article 19 of the framework directive should specifically provide for the possibility of laying down mandatory environmental treatment standards;
- 2.11 **recommends** that, with regard to Articles 29 to 31 of the framework directive, which relate to the waste prevention programmes, provision be made for a review, along lines similar to the arrangement introduced for waste management plans in a bid to secure their effectiveness;
- 2.12 **asks** that, in the 2010 evaluation and in any future evaluations, a discussion be held as to whether energy recovery rates for new plants should be increased from the proposed 65% to reflect technological developments, and whether different requirements might be applied to recycling facilities, also to take account of technological developments.