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REPORT FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT

ON WASTE MANAGEMENT POLICY

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SUMMARY

In response to the Commission's communication on a Community Strategy for Waste Management, the Council Resolution of 7 May 1990 on waste policy put forward a set of requests and guidelines for Community waste management policy in the 1990s.

In this report the Commission presents its approach towards setting up a comprehensive policy to deal with all waste in the Community.

The Commission has proposed a series of general legislative measures establishing the legal framework for the Community Waste Management Policy, which, together with other, more specific measures to deal with particular types of waste (packaging) or waste disposal operations (incineration), have already been adopted by the Council. Further measures are in the last stages prior to final adoption (PCBs, landfill).

The legislative work has been complemented by measures and proposals for the management of specific waste streams, the development of waste statistics and exploration of the application of new economic and technical instruments to help achieve the ultimate objective of turning waste management into a generally accepted, necessary, economically viable and environmentally sound practice.

Evaluation of the operational difficulties of the Community Waste Management Policy highlighted a number of issues which, if properly dealt with, would enable the Community to become more effective. First of all, work must be based on commonly agreed and respected definitions and principles; secondly, the Community institutions need to agree on a long-term strategy and the commitment to pursue it. Meanwhile, the Member States must strengthen their political will to find the means to implement a closed loop waste management policy. New instruments need to be developed to back up the regulatory work and provide a better technical and economic basis for Community policy and measures. Finally, there must be greater collaboration and dialogue between Community Institutions, Member States and the actors and sectors involved in waste management in order to develop the Community Waste Management Policy in accordance with the principles of transparency, subsidiarity and shared responsibility. This calls for a particular effort on information and training.

I. INTRODUCTION

The Commission is submitting this report to the Council and Parliament in response to the **Council Resolution of 7 May 1990 on waste management policy**¹.

Though requested for the end of 1992, the report has been delayed to enable the Commission:

- to cover the latest developments regarding the three main legislative acts underpinning the Community waste management policy, viz. the framework Directive on waste, the Directive on hazardous waste and the Regulation on the supervision and control of shipments of waste within, into and out of the European Community;
- to provide additional information on other legislative measures recently adopted or on the point of being adopted by the Council, viz. the proposals on packaging and packaging waste, the landfill of waste and the incineration of hazardous waste.

The "**Community programme of policy and action in relation to the environment and sustainable development**" (Fifth Action Programme),² adopted by the Commission in 1992, was a major step forward, laying the foundations for a Community environment policy geared towards sustainable development.

The fifth programme marked a new approach based on the principles of prevention, shared responsibility, subsidiarity, integration and transparency.

These are the principles which will underpin the Commission's continued implementation of a waste management policy geared towards sustainable development.

¹ OJ 1990, C 122, p. 2.

² COM(92)23 final, 20.5.92.

II. WASTE MANAGEMENT REGULATIONS

Since the **Community Strategy for Waste Management**³ was adopted in September 1989, action in this field has been developing in the following five areas:

- prevention,
- promotion of recovery,
- minimization of final disposal,
- regulation of transport,
- remedial action.

Each of these areas encompasses different activities:

- prevention: clean technologies and products, reuse,
- recovery: recycling and transformation of materials, energy recovery,
- disposal: optimization of landfills and incineration, preferably with energy recovery,
- transport: minimization and control of shipments of waste,
- remedial action: clean up of contaminated sites.

These major themes have inspired both the legislation adopted since 1989 and the programming of future Community action.

The Strategy called for a consistent approach to waste management in the Community, an important precondition of which was the establishment of a suitable legal framework of basic definitions and concepts. This has been promoted through the following three pieces of legislation, which currently constitute the backbone of the waste management policy:

- **Directive 91/156/EEC**⁴ amending **Directive 75/442/EEC**⁵ on waste

This Directive provides the legal framework for the avoidance, management and disposal of waste, as set out in the Community Strategy for Waste Management. The Directive is based on the following main elements:

- a definition of waste;
- the establishment of a common terminology through the adoption of Commission Decision 94/3/EC of 20 December 1993 establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste,⁶ commonly referred to as the European Waste Catalogue;

³ SEC (89) 934 final, 18.9.89.

⁴ OJ 1991, L 78, p. 32.

⁵ OJ 1975, L 194, p. 39.

⁶ OJ 1994, L 5, p. 15.

- the need to establish, for waste disposal, the principles of proximity (disposal in one of the nearest suitable facilities) and of self-sufficiency at Community level;
- the use of waste management plans as a major tool to achieve this policy.

- **Council Directive 91/689/EEC on Hazardous Waste⁷**

This Directive, which replaces **Directive 78/319/EEC on toxic and dangerous waste**,⁸ falls within the framework of Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC. It lays down additional, more stringent rules to take account of the special nature of hazardous waste. The Directive is designed:

- to make the management of hazardous waste in the Community more effective;
- to use a precise and uniform definition of hazardous waste;
- to ensure that the disposal and recovery of hazardous waste is monitored as closely as possible.

This precise and uniform definition had to be in the form of a list, the compilation of which proved very difficult. This resulted in the date of application of the Directive being delayed until 27 June 1995. Since the Council adopted the list on 15 December 1994, this deadline will now be met.

- **Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community⁹**

This Regulation has replaced **Directive 84/631/EEC on the supervision and control within the European Community of the transfrontier shipment of hazardous waste**.¹⁰ The Regulation is adapted to the new context of the single market and transposes into EC law the relevant international agreements, such as the Lomé IV Convention, the Basel Convention on the control of transboundary movements of hazardous waste and their disposal and the OECD Decision on the control of transfrontier movements of waste destined for recovery. Amongst other decisions taken under these international agreements, the Regulation bans exports of hazardous and radioactive waste from the European Union to ACP countries.

⁷ OJ 1991, L 377, p. 20.

⁸ OJ 1978, L 84, p. 43.

⁹ OJ 1993, L 30, p. 1.

¹⁰ OJ 1984, L 326, p. 31.

The Regulation takes account of the new approach of limiting movements of waste intended for disposal, in accordance with the principles of self-sufficiency and proximity, and regulates the control of movements of waste intended for recovery in order to promote recovery and to avoid movements of such waste to environmentally unacceptable recovery activities.

These three pieces of legislation constitute the general framework upon which more specific directives have been developed, e.g. regarding the optimization of waste disposal:

- Incineration of waste

After the Council adopted the **Directives on new (89/369/EEC)¹¹ and existing (89/429/EEC)¹² municipal waste incineration plants**, the Commission sent it a proposal for a **Directive on the incineration of hazardous waste**. The proposal was for an integrated approach to environmental protection, dealing not only with air pollution, but also with the protection of soil, and surface and ground water, taking account of Community legislation in these areas. The proposed measures are based on the most up-to-date techniques for preventing and reducing pollution. The Directive was adopted on 15 December 1994¹³.

In view of the rapid development of technology in this area, the Commission is preparing a proposal for a directive on the incineration of non-hazardous waste to replace the two Directives on the incineration of municipal waste and to include non-hazardous industrial waste.

- Landfill of waste

The Commission has sent the Council a proposal for a **Directive on the landfill of waste**.¹⁴ The proposal introduces a horizontal framework imposing a specific authorization procedure for landfills and acceptability criteria for different types of waste for specific and appropriately prepared categories of landfill, with a view to preventing or reducing adverse effects on the environment as far as possible, and especially the pollution of surface water, groundwater, soil and air and the risks this can pose to human health. It lays down environmental and technical standards for the operation of landfills, based on a high level of environmental protection. It also lays down monitoring and control procedures for when landfills are closed down. Following favourable opinions from Parliament and the Economic and Social Committee, the Council reached political agreement with a view to a common position on 9 June 1994.

¹¹ OJ 1989, L 163, p. 32.

¹² OJ 1989, L 203, p. 50.

¹³ OJ 1994, L 365, p. 34.

¹⁴ OJ 1991, C 190, p. 1.

Another area of waste management law deals with the environmental effects of certain products when they become waste:

- Packaging and Packaging Waste

With the aim of harmonizing disparate national laws, Parliament and the Council adopted a **Directive on packaging and packaging waste**¹⁵ in December 1994.

The Directive covers all packaging and packaging waste placed on the Community market and aims to harmonize national management measures so as to provide a high level of environmental protection and ensure the functioning of the internal market.

In line with the Community strategy for waste management, the Directive lays down that the management of packaging and packaging waste should give top priority to the prevention of waste with, as additional principles, re-use of packaging, recycling and other forms of recovering packaging waste and, hence, reduction of the final disposal of such waste. The introduction of a rigid hierarchy which could go against the need for flexibility and non-discrimination between packaging materials, packaging systems and packaging waste management alternatives has been avoided. A general principle of equivalence between re-use, recovery and recycling has been maintained.

The Directive sets the following targets:

- Recovery: between 50 % and 65 % of all packaging waste;
- Recycling: between 25 % and 45 % of all packaging materials, with a minimum of 15 % for each individual material.

To allow for particular situations, it includes a clause enabling Member States to pursue higher targets, provided they comply with a number of conditions, and in particular that their policies should not hinder the introduction of similar policies in other Member States. To allow for existing special circumstances, some countries are allowed additional time to attain the first stage targets.

Member States must take the necessary steps to set up return, collection and recovery systems so as to attain the objectives of the Directive. In accordance with the principle of subsidiarity, Member States are free to develop their own management systems according to their national requirements and in accordance with the Treaty.

¹⁵ OJ 1994, L365, p. 10.

- Batteries and accumulators

On 18 March 1991 the Council adopted **Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances**¹⁶ (mercury, cadmium and lead).

The Directive establishes:

- a marketing ban on batteries and accumulators with a high heavy metal content;
- the marking of the batteries and accumulators referred to in the annex (Commission Directive 93/86/EEC of 4 October 1993);
- that Member States must draw up prevention programmes and programmes to collect the batteries and accumulators referred to in the annex.

- PCBs and PCTs

To counter the risks posed by PCBs and PCTs to human health and the environment, a new proposal for a **Directive on the disposal of polychlorobiphenyls and polychloroterphenyls (PCB/PCT)**¹⁷ will replace **Directive 76/403/EEC**¹⁸ on the same subject. It promotes better control of the management of PCBs and PCTs and improves the way they are disposed of and replaced.

The Council reached political agreement on the proposal in December 1994.

Chapter IV of this report describes action taken with regard to particular waste streams.

¹⁶ OJ 1991, L 78, p. 38.

¹⁷ OJ 1988, C 319, p. 57.

¹⁸ OJ 1976, L 108, p. 41.

III. IMPLEMENTATION AND MONITORING OF COMMUNITY LAW

Application measures

A **Committee for Adaptation to Scientific and Technical Progress** was set up following the adoption of the revised framework Directive (91/156/EEC) on waste. The Committee is made up of the representatives of the Member States and chaired by the representative of the Commission, who tables proposals for adoption by the Committee. The Committee started its work in December 1991 and has so far adopted the list of wastes (the European Waste Catalogue) required by Directive 91/156/EEC and agreed to amendments to the Directive on batteries. It has also discussed the list of hazardous waste and delivered a favourable opinion on the consignment note and the annexes to Regulation (EEC) No 259/93 on shipments of waste. Furthermore, a working group, set up by the Committee, discussed the distinction between "wastes" and "products".

Reporting Directive

One of the instruments developed to improve the implementation and monitoring of Community law is **Council Directive 91/692/EEC standardizing and rationalizing reports on the implementation of certain directives relating to the environment**.¹⁹

A number of Community directives on the environment require Member States to report on the measures taken to implement them. On the basis of the national reports, the Commission drafts consolidated reports giving a general assessment of the current implementation of these directives in the Community as a whole.

This Directive harmonizes reporting on the different directives, stipulating that:

- the national reports be drawn up every three years on the basis of a questionnaire produced by the Commission with the assistance of a committee;
- the reports be sent to the Commission within nine months of the end of the three-year period they cover;
- the Commission publish a consolidated report on the sector concerned within nine months of the submission by Member States of their respective reports.

The first reports on the implementation of the waste directives should cover the period from 1995 to 1997 inclusive and should reach the Commission before 1 October 1998. The Commission adopted the relevant questionnaires on 24 October 1994. These cover Directives 75/439/EEC on the disposal of waste oils, as amended by Directive 87/101/EEC,²⁰ 75/442/EEC (framework Directive), as amended by Directive 91/156/EEC, and 86/278/EEC on the use of sewage sludge in agriculture.²¹

¹⁹ OJ 1991, L 377, p. 43.

²⁰ OJ 1987, L 42, p. 48.

²¹ OJ 1986, L 181, p. 6.

IV. SPECIFIC COMMUNITY ACTION

PRIORITY WASTE STREAMS

In its Resolution of 7 May 1990 the Council considered it desirable to establish action programmes for particular types of waste and invited the Commission to present proposals for action at Community level.

The first step was to work with the Member States to produce an inventory. On the basis of the inventory the Commission initiated in 1991 its Programme on Priority Waste Streams. For maximum results in terms of reducing the main waste streams and improving their management, the Commission opted for greater participation by all the actors concerned with specific waste streams and the use of special discussion procedures. This approach is in line with the principles set out in the Fifth Action Programme on the Environment.

Under this procedure, a project group of all interested parties at Community level (Member States, European Commission, producers, distributors, suppliers of materials, consumers, environmental organizations, etc.) identifies the problems caused by a specific type of waste, formulates targets for reducing or avoiding such problems, looks at alternative strategies and proposes measures.

Given that some of the measures proposed may affect other aspects of the life cycle of a particular product, such as its production, distribution or use, and not only its waste phase, any action under consideration has to be negotiated and agreed by all the sectors concerned at institutional, industrial and consumer level.

One objective of the new approach considered for the Priority Waste Streams programme was to examine new instruments for implementing the Community waste management policy different from and complementary to the hitherto exclusively regulatory approach.

The following projects have been initiated under the Priority Waste Streams Programme since 1991:

Used tyres

The project was launched early in 1991 and concluded by the end of 1993.

The parties involved proposed a strategy to stop disposing of used tyres in landfill by the year 2000, and to stop incinerating them without energy recovery.

This will mean:

- reducing the number of used tyres through preventive measures in the field of tyre maintenance;
- increasing the retreading of used tyres from 20 % in 1990 to 25 % by the year 2000;
- recovering at least 65 % of discarded used tyres by the year 2000 (against 30 % in 1990).

The final report presented by the project group to the Commission comprises:

- a proposal for a (Commission) Recommendation regarding measures for the prevention, recovery and disposal of used tyres to meet the abovementioned objectives,
- a proposal for a (Council) Resolution on used tyres welcoming the Commission's Recommendation, and calling for collaboration between the Commission and the Member States in evaluating the impact of the proposed measures,
- a proposal for an amendment to the Council Directive on the landfill of waste to ensure that whole used tyres are not accepted for landfill from 1996 onwards, and shredded used tyres from 2000. This ban should ensure the introduction of other forms of used tyre management in accordance with the strategy defined in 1990.

The Commission is planning to back up the project group's proposals with a proposal for a Council Directive, which could in turn be backed up by other measures, such as voluntary agreements or technical or economic instruments designed to:

- ensure that whole used tyres are not accepted for landfill from 1998 onwards, and shredded used tyres from 2000;
- set the conditions for establishing a market for retreaded, regrooved and recycled tyres as well as alternative usages of tyre granulates;
- establish the principles for ensuring common quality standards for recovered tyres.

End of Life Vehicles

The End of Life Vehicles project began in 1991 and submitted its results to the Commission in March 1994.

The objective of the Strategic Plan submitted to the Commission is to encourage recycling by reducing the amount of residues disposed of to 15 % by the year 2002 and to 5% by 2015. It is based on the integration of collection activities and the processing of end-of-life vehicles in networks which tackle both aspects. Such integration, together with optimized recovery of non-metallic parts, should allow extra costs to be absorbed in line with market laws.

The short-term strategy is based on a system of authorization of integrated collection and processing networks, together with the issuing of a certificate of delivery to the last owner when the vehicle is finally taken off the road.

The long-term strategy is for new vehicles coming onto the market to be designed for easier recovery.

The Commission is currently examining the project group's findings and will decide how to proceed as soon as possible, possibly opting for voluntary agreements.

Healthcare Waste

Healthcare waste has been identified as a priority waste stream owing to the diversity and complexity of its composition and the potential dangers it poses for the environment, including the risk of infectious contamination.

The findings of the group, communicated to the Commission services in December 1994, indicated that the latter should prepare and put to the Council a draft directive laying down:

- (a) basic concepts of healthcare waste management, such as the adoption of definitions and classification;
- (b) environmental protection rules applying to the places where such waste is produced;
- (c) environmental protection rules applying outside such areas.

Other projects currently under discussion are:

Construction and Demolition Waste

The general aim of this project is to reduce the amount of such waste disposed of in landfills and give priority to the reuse or recycling of raw materials.

Waste from Electrical and Electronic Equipment

The general aim of this project is to reduce the amount of residues disposed of, to recover valuable raw materials and energy and to produce a design for equipment which facilitates environmentally sound management in the waste phase.

Chlorinated solvents

The Commission began a project on chlorinated solvents in 1991. The project was suspended following the implementation of the Montreal Protocol on CFCs, which covered the four main solvents involved.

WASTE STATISTICS

The Commission underlines the importance of developing and updating data on waste types and waste streams in the Community so as to be able to determine what action to take at the most appropriate point.

In addition, one of the aims and activities of the Fifth Action Programme is the development of data on the production and characterization of waste (hazardous and non-hazardous) and on waste processing installations within the framework of the strict application of Community law.

Facts show that the lack of a standard waste nomenclature in the Member States makes it very hard, or even impossible, to make qualitative and quantitative estimates.

Accordingly, the Commission (Eurostat - DG XI) has set up a working party on environmental statistics, which has launched a programme to produce a system of waste statistics.

This programme began with an inventory of the statistics available in the Member States, collected and published in the brochure "Statistics and Environment 1991".

This showed that waste statistics in the Member States are very heterogeneous and incomplete and cannot be compared owing to differing administrative requirements and, notably, different national waste catalogues.

A statistical methodology has been proposed to remedy this situation. It includes a system of statistical surveys in industry (production and processing of waste), local authorities (collection and processing) and processing businesses. There are also plans to put the documents which accompany waste shipments to statistical use. The methodology also supposes a common statistical nomenclature, for which the European Waste Catalogue should serve as basic reference.

The second phase of the programme comprises pilot surveys in four Member States (Denmark, Netherlands, Portugal, United Kingdom) to test the proposed methodology and the European Waste Catalogue. On the basis of the results (end 1994), a programme will be finalized which will lead to the creation of a legislative framework for the production of Community waste statistics. The Commission recently began preparatory work in this area.

V. INFORMATION, CONSULTATION AND COMMUNICATION

Since work first began to develop a Community waste management policy, Member States and industrial and professional associations have been formally consulted through committees and *ad hoc* working parties.

Waste Management Committee

The Waste Management Committee was set up by Commission Decision 76/431/EEC of 21 April 1976. Its task is to provide the Commission with opinions on matters relating to the formulation of a waste management policy, the implementation of directives on waste management and any proposals for new legislation.

The Committee is chaired by a representative of the Commission, which appoints two representatives per Member State. It meets twice a year.

Ad Hoc Commission-Industry Waste Management Committee

An *ad hoc* committee of representatives from trade and industry was set up in 1991 to deal with waste management issues. Its purpose is to provide regular contact between trade and industry and the Commission and thus improve communication on waste management matters. Specific working parties may be set up to deal with particular subjects.

These committees and working parties are proof of a degree of transparency in the Commission's working methods, which is a basic principle of the Fifth Programme.

Furthermore, in drafting Community law the Commission invited not only national experts, but also industry, consumers and environmental NGOs to give their opinions (on the packaging directive, the landfill directive and the waste list, for instance). Regular contacts are maintained with industry, the NGOs and consumer associations in the work on priority waste streams.

The Commission pursues an active policy of communication with various disseminating bodies (local and regional authorities, NGOs, economic operators, unions, etc.).

VI. DIFFICULTIES IN IMPLEMENTATION

In drafting legislation and implementing its waste management policy the Commission has run into a number of inter-related difficulties:

- (a) Technical and administrative implementation of Community provisions. It is not rare for administrative and technical structures laid down in Community acts not to be set up at national level. Partial implementation or failure to implement a unanimously adopted directive raises the whole problem of adapting the administrative, technical and organizational infrastructure in the Member States.
- (b) The lack of reliable basic statistical, technical and economic data with which the Commission could justify its policies and proposed regulations. Few proposals put forward since 1989, not even the important packaging and landfill proposals, underwent prior cost/benefit and cost/effectiveness analysis, and this has led the Member States to question their economic justification.
- (c) The imprecision of the legal acts and the ambiguity of some of the concepts which underpin the policy. This is making the three pillars of Community waste legislation (i.e. the framework Directive 75/442/EEC, as amended by Directive 91/156/EEC on waste, Directive 91/689/EEC on hazardous waste and Regulation (EEC) No 259/93 on shipments of waste within, into and out of the Community) difficult to apply, leaving authorities and economic operators in a situation of uncertainty and causing much misunderstanding.
- (d) The poor functioning of collective consultation. For all that the Commission is assisted by committees (two consultative, one regulatory), consultation is failing to produce the hoped-for results, mainly because the committees do not bring together the people really responsible for practical implementation of waste management policy.

These difficulties cannot be overcome by legislation alone. Other measures are needed, whether technical (information gathering, cost/benefit analysis), economic (financial support, economic instruments) or managerial (plans, voluntary agreements), and should be considered in addition to legislative action.

All this calls for greater collective consultation of the actors as a whole, i.e. through development of networks of the main partners at both administrative and operational level.

VII. CONCLUSION

The abovementioned tasks have been the main subject of Community activity on waste management policy over the last five years. The greatest emphasis has been on developing a regulatory framework, while not forgetting to explore new approaches, develop new instruments and analyse new issues that will determine the path to follow in the future.

The Commission has started several initiatives to that extent, such as the examination of Community networks in the waste sector, amendments to the Regulation on the shipment of waste and, if the case arises, to the Basel Convention, a better implementation and application of the existing provisions and the promotion of economic instruments in the waste sector.

The legislative framework rests on three pillars: Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC, Directive 91/689/EEC on hazardous waste and Regulation (EEC) No 259/93 on the shipment of waste. It has been fleshed out by specific directives or proposals (recently, on packaging, the incineration of dangerous waste, landfill and PCBs).

The Commission is proposing to work closely with the Member States in the months ahead to produce a communication setting out a strategy which is not confined to legislation, which is based on greater collective consultation of the actors and provision of information to the public and which takes account, *inter alia*, of discussions on the creation of European infrastructure networks, the necessity to better define "wastes" with regard to "products" and to ensure a better practical implementation of Regulation 259/93 on the shipment of wastes, the transport of waste to third countries, civil liability, economic instruments and the implementation of existing provisions.

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