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Minister of the Environment  
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Brussels, 14 December 2006

**Proposal for a Waste Directive  
(COM (2005) 667 final)**

President,

In view of your further proceedings with the proposal for a waste directive, Orgalime would like to seek your support for its key positions on this draft directive in the light of the voting results of the European Parliament's environment committee.

Against the background of our industry being subject to sector specific waste legislation<sup>1</sup>, besides being impacted by further waste stream specific as well as environment legislation<sup>2</sup>, Orgalime kindly requests you to take into account the following positions:

- **Consistency of waste legislation with other legislation, and existing environmental and product legislation in particular**

Waste legislation for our sector comes into an area that is heavily regulated. Orgalime therefore believes that the proposal for a waste directive should fully tie in with principles and approaches chosen for other legislation applying to our industry, and the established framework for integrating environmental aspects into the design of energy using products (EuP) in particular. It should equally ensure a proper reflection of the experiences gained from implementing specific waste legislation, such as WEEE, RoHS, batteries or end of life vehicles. This, in our view, is to date not yet the case.

- **A sole legal base of art. 95 of the EC Treaty where waste policy constitutes product policy**

One key experience with the transposition and implementation of WEEE is that waste legislation can significantly impact the functioning of the internal market (e.g.: where member states opt for national divergences on WEEE marking requirements or information requirements in the context of producer registration to national WEEE registers). Since WEEE establishes obligations on producers of electric and electronic appliances before placing a

<sup>1</sup> Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE)

<sup>2</sup> For example: Directive 2006/66/EC on Batteries and Accumulators and Waste Batteries and Accumulators and Repealing Directive 91/157/EC; Directive 2000/53/EC on End of Life Vehicles (EoLV); Directive 2005/32/EC establishing a Framework for the Setting of Eco Design Requirements of Energy Using Products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC (EuP); Directive 2002/95/EC on The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) or Directive 1996/61 on integrated Pollution Prevention and Control (IPPC).

product on the Community market in order to finance its treatment end of life, we take the view that article 175 of the EC Treaty cannot be the sole legal base of WEEE. Consequently, where the proposed draft waste directive legislates on products, the proposal should be built upon art. 95 of the EC Treaty.

- **Waste policy should not legislate on the design of engineering products**

Orgalime challenges the recently adopted proposal of the EP environment committee to formulate an eco design policy by 2010. European regulators have just agreed upon the above-mentioned EuP directive, which, for our sector, establishes the criteria for the adoption of design related requirements. We strongly oppose to the duplication of design related requirements on our sector through provisions of the draft waste directive, and article 29 and annex IV in particular. In addition, adverse effects can occur if design were limited to one stage of the life cycle (e.g.: design for recycling). We seek the Council's support for dropping design related measures from waste prevention measures, if any. We equally encourage the Council to reject the respective EP committee amendment.

- **Sufficiently flexible a waste hierarchy**

Orgalime favours a more flexible approach to the waste hierarchy, especially if it were built upon life cycle thinking. The introduction of mandatory life cycle assessment, however, as recently proposed by the European Parliament, coupled with cost benefit analysis to identify alternative treatment options would in our view be very complex and burdensome and highly difficult to be implemented in practice.

- **Coherence of the EU's waste policy framework**

Waste policy in our view should establish coherent requirements. While interesting as an approach, Orgalime is surprised that regulators discuss a shift from waste stream specific to material specific targets, while at the time of discussing the WEEE directive a material based approach was rejected. In particular, we do not believe that a new material specific approach on top of existing waste stream specific requirements would be beneficial, neither for our industry's competitiveness nor for the environment since multiple conflicting legal requirements only create confusion.

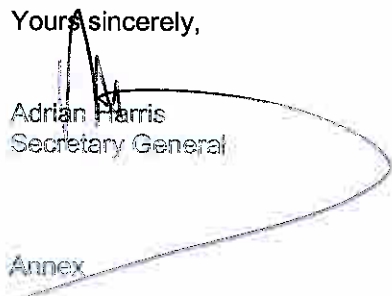
In addition, consistent definitions that would apply throughout waste related legislation are in our view a prerequisite for waste legislation to work in practice.

- **Clear cut environment priorities rather than target setting** If regulators agreed on clear cut environmental objectives for the treatment of waste equipment, we believe that one could consider to move away from targets in the mid term, be they waste stream or material specific, while at the same time achieving human health and environmental protection goals. If the environmental objectives for waste treatment were clearly set, market forces would stir the development of technologies that met the established policy objectives without unnecessarily prescribing individual treatment techniques and technologies. Such an approach would also be cost efficient.

We hope to count on your support in your further proceedings on the proposed waste directive and enclose Orgalime's position paper on EU waste policy and its recent recommendations for the vote of the EP environment committee in the annex to this letter.

We remain of course available for any further information that you may wish to obtain.

Yours sincerely,

  
Adrian Harris  
Secretary General

Annex