



POSITION PAPER

EP ENVIRONMENT COMMITTEE VOTING RESULTS ON THE PROPOSAL FOR A WASTE DIRECTIVE:

RECOMMENDATIONS FOR NEXT STEPS

Brussels, 24 January 2007

Orgalime, the European Engineering Industries Association, speaks for 36 trade federations representing some 130,000 companies in the mechanical, electrical, electronic and metalworking industries of 24 European countries. The industry in 2005 accounted for some €1,598 billion of annual output. The industry does not only represent more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union. It is the largest manufacturing sector in Europe. It is also the largest industrial employer in the EU27, providing some 10 million jobs.

In view of the upcoming plenary vote of the European Parliament on the proposal for a waste directive, Orgalime comments on the report of the European Parliament's Environment committee adopted on 28 November 2006 as follows and requests the support of regulators for the following recommendations for the way forward:

Orgalime supports amendments of the Environment committee report that

- clarify the **relationship between EU waste policy and certain other environment legislation**
- ensure **better transparency** when coming forward with waste policy initiatives by proposing **a structure for the consultation of stakeholders**
- modify the Commission's energy efficiency formula for the **distinction between disposal and recovery operations**

We therefore recommend that the European Parliament should finally adopt amendments 5, 15.1, 15.3, 15.4, 31, 39.3, 65, 79 and 80 of the Environment committee report.

On the other hand, Orgalime is concerned that the Environment committee in a number of areas proposes amendments that miss the opportunity to shape the present waste directive according to experiences made with the implementation of existing sector specific waste legislation, such as directive 2002/96/EC on waste electrical and electronic equipment (WEEE).

Orgalime furthermore regrets that a number of amendments proposed by the committee run counter Better Regulation principles and risk having significant negative impact on our industry's competitiveness that competes on global highly innovative markets.

Such shortcomings are in our view particularly evident in the following areas:

ORGALIME THE EUROPEAN ENGINEERING INDUSTRIES ASSOCIATION

Bd A. Reyers 80 - Diamant Building - B-1030 - Brussels – Ass. Intern. A.R. 12.7.74 - VAT BE 0414341438
Tel. 32 2 706 82 35 - Fax 32 2 706 82 50 - secretariat@orgalime.org - www.orgalime.org

- **Proposals that allow member states to divert from harmonised requirements risk disrupting the functioning of the internal market**

Orgalime regrets that the potential of full harmonisation has not yet been explored for product policy related aspects included in the proposed amendments to the waste directive. On the contrary, a series of further amendment proposals in our view constitute a serious threat to the functioning of the internal market by granting member states too high a degree of flexibility to divert from EU provisions. These particularly concern

- the wide flexibility granted to member states in the context of developing waste prevention programmes (article 29ff) and
- the inclusion of design related aspects under annex IV.

We believe that if the draft waste directive is indeed to serve as an example of Better Regulation and simplification, article 95 of the EC Treaty must be considered as the sole legal base for all product related aspects involved.

We request MEPs to table an amendment that brings product related articles of the draft waste directive, and art. 29 and annex IV in particular, under the legal base of article 95 of the EC Treaty.

We equally seek the support of MEPs for rejecting amendments 10, 19, 37 and 69 of the ENVI committee report.

- **Proposal for the formulation of a product eco design policy by 2010 introduces incoherent and inconsistent legislation on EU engineering industries**

Orgalime objects the proposed “formulation of product eco design policy addressing both, the generation of waste and the presence of hazardous substances in waste”, since both aspects for our sector are already covered by existing finally adopted EU legislation, namely directive 2005/32/EC on eco-design requirements for energy using products (EuP), directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) as well as the REACH regulation.

We request the rejection of amendment 37 (litera b in particular).

- **Proposal to introduce a five step waste hierarchy coupled with mandatory lifecycle assessment and cost benefit analysis**

Orgalime favours a more flexible approach to the waste hierarchy, especially built upon life cycle thinking. The introduction of mandatory life cycle assessment, however, coupled with cost benefit analysis to identify alternative treatment options in our view would be very complex and burdensome and highly difficult to be implemented in practice. Orgalime also underlines the importance that incineration with utilisation of energy represents a better option than disposal.

We therefore request MEPs

- ***to re-table amendment 135 of the DRAFT Environment committee report and***
- ***to reject amendment 14 of the Environment committee report.***

- **Proposal to introduce the principle of producer responsibility at the horizontal level of the waste directive will cause legal uncertainty and free-riding**

The principle of producer responsibility is taken up in waste stream specific legislation, such as the WEEE directive, and therefore already applies on the level of our industrial sector. Other waste stream specific legislation, such as End of Life Vehicles or the Batteries directives, establishes producer responsibility for those sectors.

While in principle interesting, the introduction of a horizontal principle of producer responsibility would, for our industry, create confusion for the further implementation of the WEEE directive, while at the same time create double and overlapping requirements:

Enshrining this principle horizontally in the proposed draft waste directive would in our view not be enforceable since it would make an undefined number of economic actors responsible for their “waste products”. Duplicated legislation would leave it unclear what economic operator would be responsible for doing what and for which product, thereby creating enormous potential for free riding. Amendment 35 seems thereby to open up for a general shift of a waste stream to a material specific approach in EU waste policy, which is in contrast to existing waste stream specific legislation.

The proposed amendment 35 of the Environment committee not only conflicts with such sector specific legislation, but, if finally adopted, would also create inconsistent legislation. For example, amendment 35 is limited to one stage of the life cycle, namely waste, and therefore inconsistent with the EuP directive that follows life cycle thinking. Amendment 35 also includes multiple undefined terms and phrases, e.g.: what would “waste which is generated as a result of their product” mean? Market control will fail due to ambiguous, overlapping and incoherent requirements while manufacturing industry would bear the risk of being charged multiple times for the waste treatment of the same product and materials/substances included in it. On top, there could be at least 28 different ways of applying the horizontal producer responsibility principle in the EU, since amendment 35 obliges the Commission and member states to make producers/importers responsible in a directive based upon article 175 of the EC Treaty.

Orgalime urges MEPs to reject amendments 8 and 35 of the Environment committee report.

- **Proposed modifications to the mechanism of defining secondary materials, substances and products**

The current proposal in our view partly acknowledges that the decision on the (non-) existence of a market for secondary products, materials and substances represents an economic decision. We welcome this modification brought by amendment 45 of the Environment committee report.

However, we consider that environmental criteria should be relevant for the decision whether or not a specific product, material or substance could be reclassified as secondary product, material or substance. The reference to quality criteria in our view unnecessarily shifts the economic decision whether or not a product satisfies market needs from individual companies to the Commission. This in our view goes too far in a liberal market economy.

We request MEPs to table an alternative to amendment 45.2 that would delete the notion “and quality” from article 11.2.

- **Proposal to establish an additional permitting procedure in parallel to directive 91/61/EC on IPPC**

Additional permitting rules to the existing IPPC directive in our view risks increasing additional red tape and costs for recycling while overlapping with the IPPC directive as well as increasing national divergences in waste treatment. Besides, the IPPC directive is announced to be revisited shortly.

Amendments 58 and 60 of the ENVI committee report should therefore NOT be finally adopted.

- **Proposals for modifying a number of definitions**

Regarding the definition of “waste” provided in article 3.a of the Commission proposal, Orgalime believes that the term “discard” requires further clarification in order for the given waste definition to better work in practice.

We would therefore welcome the inclusion of a specification in relation to the term “discard” within article 3.

The definition of “prevention”, in amendment 19 of the Environment committee report, clearly overlaps with substance restriction legislation, such as REACH or RoHS.

Regarding the Environment committee’s proposals for modified definitions of “re-use”, “recycling” “recovery” we wish to stress that the WEEE Directive also includes provisions relating to these terms. The recently adopted Eco Design of Energy Using Products Directive (EuP) equally includes definitions of “re-use”, “recycling”, but also “energy recovery”.

For the sake of ensuring simplification and coherence, we therefore call upon legislators to ensure consistency of these definitions throughout legislation affecting our industry and to reject any amendments that would run counter this principle, i.e.: amendments 19 and 21.

In conclusion, Orgalime calls upon members of the European Parliament to strive for an EP first reading position on the draft waste directive that would improve the existing legal framework in the spirit of establishing

- **a truly harmonised directive where waste policy constitutes product policy and**
- **a consistent and mature waste policy framework that is built upon lessons learned to date from the application of existing waste policy measures.**

Only by establishing **clear and coherent requirements and responsibilities** can Europe lead by example on waste management to the benefit of the environment, consumers and the competitiveness of European industry alike.