



6 April 2005

ASSURRE

Mr Stavros Dimas
Commissioner for Environment
European Commission
Cabinet of Stavros Dimas - Environment
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European Compost Network ECN/ORBIT e.V.

European Environmental Bureau

European Federation of Waste Management
and Environmental Services

International Solid Waste Association

RREUSE

RE: THE COMMISSION'S INTENTION TO ABANDON THE PROPOSAL FOR A BIOWASTE DIRECTIVE

Dear Mr Dimas,

The issue of a stand-alone Biowaste¹ Directive was first brought up at EU level in 2000. After five years, three comprehensive Commission working papers, numerous stakeholder meetings and at least **seven different institutional calls for legislation** (see annex 1) **the promised Directive has not yet been delivered**. As a coalition bringing together both industry and civil society we are deeply concerned about the apparent intention of DG Environment not to bring forward an independent legislative proposal for a Directive on the biological treatment of biowaste, despite all the evidence, which clearly shows that such legislation would bring about multiple environmental and economic benefits.

The only 'action' proposed on biowaste to date – the development of compost product standards in the annex of a revision of the Waste Framework Directive – is insufficient. **Standards alone will not establish the drivers that would generate the necessary critical mass** that make the essential supporting socio-economic activities (investments in infrastructure, quality guarantee schemes, research etc) viable, which in turn establish and maintain a healthy compost production industry and markets.

The sustainable management of biodegradable waste is a crucial component of the EU's sustainable resource and waste management agenda, where legislation on Biowaste is called for as one of the priority actions for achieving the objectives laid down in the 6th Environment Action Programme. A strategic Biowaste Directive, boosting the recovery of organic matter, has the potential to fulfil multiple objectives of the 6th EAP Thematic Strategies, as it would in particular:

¹ Biowaste = the exogenous organic matter coming from municipal, agricultural, agro-industrial and retail sectors.

- **help Member States fulfil the diversion targets of the Landfill Directive** ensuring that valuable organic resources are not diverted from landfill only to incineration, but that quality composting and alternative biological treatments are actively encouraged as viable treatment options for this waste stream which is estimated to be of the magnitude of at least 30 million tonnes² in the EU25 in 2006 and 60 million tonnes in 2009. This is also **consistent with** the Commission's intentions so far for the **forthcoming Thematic Strategy on Waste Prevention and Recycling** to promote environmentally beneficial recycling for suitable waste streams;
- **be consistent with the Commission's own Communication on the Thematic Strategy for Soil Protection** by addressing the issue of soil organic matter decline and encouraging the recovery of organic matter and delivering clean high quality organic matter to eroded /high risk erodible soils in Europe. It can be estimated that 45% of the soils in Europe are low (1-2%) or very low (<1%) in organic carbon, and 45% have a only medium content (2-6%).³ It is estimated that 17% of Europe's total land is affected by soil erosion, which in many cases is linked to a low organic carbon content, leading to losses of about 53 Euro/ha/year in agricultural areas.⁴
- **be consistent with the Commission's own Communication Towards a Thematic Strategy on the Sustainable Use of Natural Resources** by promoting efficient use of resources, properly addressing the issue of declining quality of environmental media – in particular the fact that desertification is increasing and organic matter decreasing - and restoring and developing the functioning of natural systems;
- **help achieve the goals of the European Climate Change Programme**, when considering the role of soil organic matter acting as a carbon sink. Soil organic matter can contribute significantly to Greenhouse Gases abatement measures through the potential annual sequestration of approximately 2 Gigatonnes of carbon.⁵ As concerns biowaste it has been estimated that the separate collection and composting of the organic waste fraction alone would contribute 1.4 Megatonnes to **the creation of an additional carbon sink**.⁶

While a dedicated Biowaste Directive would provide the Commission with an excellent opportunity to present truly integrated environmental thinking there are also **economic considerations** to contemplate. Long-term confidence for investors and industry is a primary concern when considering the viability of waste management strategies. Due to the **lack of legal certainty at EU-level** for biowaste treatment the investment climate for the biological treatment sector is very unclear today.

² This is mostly likely an under estimate of the quantities of biowaste to be diverted by the Landfill directive targets, as it accounts only for MSW flows of biodegradable wastes. The EEA estimates 107 MT of biodegradable municipal waste were generated in 1999 (just in EU 15 + Norway) of which 66% was land filled (EEA 15/2001 topic report). Estimated from actual municipal waste data (eurostat news release 36/2004 - 11 March 2004) the total biodegradable waste arising in MSW for EU25 should therefore be around 120 to 130 MT.

³ Reports of the Technical Working Groups Established under the Thematic Strategy for Soil Protection (2004)

⁴ Europe's Environment - Third Assessment, European Environment Agency, 2003

⁵ Research indicates that approximately 2 Gigatonnes (Gt) of carbon is captured (sequestered) in soil organic matter annually. This amount can be compared to the 8 Gt of anthropogenic carbon emitted to the atmosphere annually in the EU underlining the importance of soil organic matter in relation to climate change - EC Communication on the Soil strategy COM (2002) 179 final

⁶ Reports of the Technical Working Groups Established under the Thematic Strategy for Soil Protection Vol. III

Considerable capital investments (multi-million Euro investments) in biological treatment facilities and waste management infrastructures and services need to be made now by municipalities and local authorities across the EU in order to comply with the Landfill Directive. **Without clear political signalling of objectives and comprehensive guidelines** for the management of biodegradable waste, **the uncertainty** regarding collection methods, the role of separation of clean waste inputs, processing standards, and acceptable application routes for treated outputs **presents unacceptable financial risks for both the private and public sectors**, effectively blocking the development of the treatment infrastructure so critical to making progress.

Once facilities and strategies are in place, it will be very hard for municipalities and local authorities to implement new practices and change long-term contracts. Clear guidelines are therefore urgently needed to enable strategic, environmentally and economically sustainable investments in integrated waste management systems to be made.

In addition to the numerous European Parliament and Council calls for legislation on the matter, the **Commission has also committed itself** to legislate the biological treatment of biowaste. Specifically in:

- **The Communication “Towards a Thematic Strategy for Soil Protection”**, COM(2002)179, April 2002 (*“By the end of 2004 a directive on compost and other biowaste will be prepared with the aim to control potential contamination and to encourage the use of certified compost*) and,
- **The Animal By-Products Regulation (1774/2002), 3 October 2002** (*“by the end of the year 2004 a Directive on biowaste, including catering waste, will be prepared with the aim of establishing rules on safe use, recovery, recycling and disposal of this waste and of controlling potential contamination.”*)

Moreover, a large number of experts on organic matter, gathered by the Commission in the framework of the Thematic Strategy for soil protection, have already provided the Commission with high-level technical expertise and recommendations supporting further the necessity for legislation on biowaste.

Considering the above **we urge you to reinstate the Commission’s previous commitment to ensure the Thematic Strategies include a proposal for a Biowaste Directive** based on the already advanced discussions on such a proposal.

Failure by the Commission to come forward with such a Directive constitutes a **loss of a unique opportunity at a crucial time** given the cross-cutting environmental and economic benefits such a Directive would have and the strong support that exists among stakeholders, Council and the European Parliament for such legislation.

We hope you can take these aspects into consideration and we look forward to hearing from you.

Yours sincerely

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Annex I - Summary of some key political commitments and calls for biowaste legislation

1) 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

Article 8.2. These objectives shall be pursued taking into consideration the Integrated Product Policy approach and the Community's strategy for waste management (1) by means of the following priority actions:

... (iv) Developing or revising the legislation on wastes, including, *inter alia*, ...sewage sludge (2), biodegradable wastes,

2) 2439th Council meeting - Luxembourg, 25 June 2002 – Soil Protection Council conclusions

pt 12. STRESSES that ongoing environmental legislation initiatives on compost, mining waste and sewage sludge, as well as air quality, will make an important contribution to soil protection and REQUESTS the Commission to present the appropriate proposals as soon as possible;

3) 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

Article 8 - Objectives and priority areas for action on the sustainable use and management of natural resources and wastes

8.2. These objectives shall be pursued taking into consideration the Integrated Product Policy approach and the Community's strategy for waste management (1) by means of the following priority actions:

(iv) Developing or revising the legislation on wastes, including, *inter alia*, construction and demolition waste, sewage sludge (2), **biodegradable wastes**, packaging (3), batteries (4) and waste shipments (5)

4) 10 October 2003 EP Report on the Commission communication 'Towards a Thematic Strategy for Soil Protection' Rapporteur: Cristina Gutiérrez Cortines

pt 17. Urges the Commission to revise the Sewage Sludge Directive (1986/278/EEC of 12 June 1986) and draw up a directive on compost; stresses the need to intensify research in this field so as to boost its potential for the recovery of soil lacking in organic matter and bring together waste management and soil protection and enrichment;

5) May 2004 European Parliament resolution on the communication from the Commission: Towards a thematic strategy on the prevention and recycling of waste

whereas Article 8(2), point (iv) of the (6EAP) programme provides for the development or revision of the legislation on wastes, including, *inter alia*, construction and demolition waste, sewage sludge and biodegradable wastes

27. Welcomes the fact that the Commission recently submitted legislative proposals on mining waste and for the revision of the batteries directive as well as the Commission's plan to submit proposals during 2004 on biodegradable waste and to amend the sewage sludge directive, which are important elements of the strategy;

6) 2593rd Council Meeting Environment Luxembourg, 28 June 2004

II. Role of the Strategy on Preventing and Recycling Waste

Pt 8. re-affirms the Council conclusions of 25 June 2002 requesting the Commission to bring forward as soon as possible the Thematic Strategy on Soils and legislative proposals on compost and sewage sludge, together with standards as appropriate;

7) The ABP Regulation EC 1774/2002, at article 6(2)g - concerning technical requirements for Catering Waste - reads:

"Category 3 catering waste shall be transformed in a biogas plant or composted in accordance with rules laid down under the procedure referred to in Article 33(2) of the Regulation or, pending the adoption of such rules, in accordance with national law. (...) In this regard, the Commission has given a commitment that by the end of the year 2004 a Directive on biowaste, including catering waste, will be prepared with the aim of establishing rules on safe use, recovery, recycling and disposal of this waste and of controlling potential contamination. This means that, pending the adoption of EU rules (i.e. the Directive on the biological treatment of biodegradable waste), composting and anaerobic digestion of biodegradable waste containing catering waste is subject to national rules."