

Remarks from RREUSE on the Commission's Communication on the Thematic Strategy on the Prevention and Recycling of Waste (TSPR) and the revision of the Waste Framework Directive (WFD) – version II

Brussels, February 2006

At the European level the TSPR and the revision of the WFD should make a difference for reuse and repair and provide the necessary instruments to develop them. However, the documents proposed by the European Commission both need to be amended to give reuse a proper and satisfying position.

Recommendations on the TSPR:

1. Waste Hierarchy

The TSPR and the WFD fail to promote a clear and well developed 5 step waste hierarchy. Especially for reuse this is bad. Reuse, recycling and energy recovery are all on the same level as a second step. This is a denial of the evidence that reuse is generally spoken better than recycling and recycling better than incineration (with or without energy recovery). The documents of the Commission open the door for a widespread use of incineration to solve the waste problem, more than to invest in prevention, reuse and recycling. Therefore we stress the importance to introduce a waste hierarchy with five steps: prevention, reuse, recycling, incineration with energy recovery and disposal. This hierarchy should be taken as a juridical basis. Derogations are possible but only if proof has been delivered that the environmental impact of a lower step is less than the environmental impact of one or more higher steps, or for reasons of public health.

2. A vision, definition and measures to develop reuse and repair activities

The TSPR hardly contains any reference to reuse. To achieve sustainable waste management the TSPR should define on reuse:

- Vision: the full title of the TSPR is 'Taking sustainable use of resources forward: A Thematic Strategy on the prevention and recycling of waste'. Extending the life of a product by reuse and repair defers the need to produce new products, and therefore the need to consume energy and raw materials in their manufacture and distribution. The TSPR should introduce a comprehensive strategy to promote reuse and to ensure that the potentials of reuse in the sustainable use of resources are fully exploited.
- Definition: the TSPR should at least mention that a definition on reuse will be introduced in the WFD. In this perspective it should be clarified clearly that there exist two kinds of reuse. The "reuse" activity can be carried out on products which have entered the waste stream and on products that are sent directly for second-use and are therefore "not waste". When a discarder donates an item, it never enters the waste stream and thus never becomes waste. This first kind of reuse is part of

prevention and falls outside the scope of waste legislation. When a discarder has sent the item to a waste stream, following a tack-back obligation for example, it has become waste. Reuse of this item has then become a recovery operation and falls under the scope of waste legislation. Clearly this suggests that "reuse" activity can be completely separate and unassociated to waste. Due to the nature of this hierarchal cross-cutting activity, the activity and definition of re-use has been misplaced and misunderstood. We suggest that "REUSE" requires clarification and a position within the waste hierarchy (see annex I).

- Measures to encourage reuse: besides the necessary legal framework (see comments below on the Waste Framework Directive) other measures are needed and should be discussed in the TSPR.
 - Set up a network of accredited reuse centres: a network of accredited reuse centres can directly contribute to quantitative waste prevention by taking reusable end-of-life products from their last owners without letting them enter the waste stream at all. This would also avoid so-called re-use leading to eco-dumping.
 - Standards for reuse: common standards at EU level are needed to determine a) what is reuseable and b) how to reuse, based on environmental and social criteria.
 - Economic incentives: reusers should have clear criteria what (reselling, remarketing, repair, refurbishing and upgrading) can be done with reused products without resuming product or producer responsibility which would give more economic certainty to their activities.
 - Reuse activities should be subject to reduced VAT rates. Lower VAT rate on the sales of reusable products and components, though this would be fully justified by environmental as well as social reasons.
 - Promotion of sustainable consumption strategies should be investigated.

3. Proximity principle

The proximity principle should remain as one of the leading principles in European waste policy. In general, it should be made sure that the proximity principle is applied whenever there is a minimum level of disposal involved in the operation chain to reduce all the external costs (energy consumption, noise, landscape deterioration) of waste transports. For proper reuse, it is usually essential to sort out appliances in the earliest possible stage of the treatment chain. Therefore, appropriate measures should be taken to establish an integrated network of reuse installations, based on the existing infrastructure. This network should ensure that end-of-life products suitable for reuse are separated and treated appropriately.

4. Building bridges – horizontally integrated policy

Apart from the environmental benefits of higher steps in the waste hierarchy, there are also social benefits. The TSPR estimates the creation of employment on 250 jobs per 10.000 tons for recycling, compared with 20 to 40 jobs needed if the waste is incinerated and about 10 for landfill. Taking into account reduced job creation in the extraction and production of virgin materials more recycling should result in a limited net creation of jobs. We can add that reuse activities create up to 500 jobs per 10.000 tons, hardly reducing jobs in the production of new products. On top recycling and reuse activities offer good job and training opportunities for people with reduced changes on the labour market, for example disabled persons, low skilled and long-term unemployed people.

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Recommendations on the revised WFD:

1. (New) Article 1 – a 5 step waste hierarchy

The Commission's proposal abandons the current guiding principle that prevention, reuse and material recycling should be the preferred waste management options over incineration with energy recovery and disposal. This is even more worrying since the Commission's long – term goal is to become a recycling society 'that seeks to avoid waste and *uses waste as a resource*'. So waste incineration would achieve the overall goal of the sustainable use of resources. A clear 5 step waste hierarchy should be introduced where reuse is a separate item between waste prevention and material recycling. This hierarchy should be taken as juridical basis. Derogations are possible but only if proof has been delivered that the environmental impact of a lower step is less than the environmental impact of one or more higher steps, or for reasons of public health.

2. (New) Article 3 h and Annex II - full definition on reuse

- Definition on reuse in Article 3 h

The proposed revision of the WFD defines reuse, but the definition is not satisfactory. It only deals with "reuse of products/components that have become waste". The problem is that reuse activities can be carried out on products that have entered the waste stream (e.g. products collected by retailers for reasons of take-back legislation) and on products that are sent directly from consumer to reuser (e.g. for second-use) and therefore have not become "not waste". In practice there is no difference between reuse of non-waste and reuse of waste. Only the origin of the products or components to be reused differs, from a legal point of view, but very often the same enterprise is carrying out both sorts of reuse. The draft proposal of WFD only defines the reuse of waste and thus makes the other part of reuse (non-waste) invisible in the legislation. This invisibility leads to ambiguity for the position of reuse in the waste legislation and for the reuse sector as actor. The definition of reuse (Art. 3) should therefore cover both reuse of waste and reuse of non-waste. This means that in the proposed definition the words "that have become waste" should be deleted. Additionally it should be mentioned (e.g. in the TSPR) that both sorts of reuse exist: reuse of non-waste which can be considered as prevention and reuse of waste as recovery. Only such a comprehensive definition ensures that reuse as concept gains a recognised and integrated position in the European waste legislation. This definition would also give more meaning to the citation of reuse networks as prevention measures in Annex IV, entry 20. Finally it would help to examine clearly the status and activities of reuse organisations and avoid duality.

- R-code for reuse of waste in Annex II

The further elaboration of reuse in the WFD is weak. Annex II of the WFD, which sums up the R-codes (activities of recovery), contains no activity that (not even partly) describes reuse of waste. This is unlogical, since reuse is described in the WFD (current article 1) as an R-activity, at least as far as reuse of waste is concerned. The lack of an R-code will force Member States to catalogue reuse of waste under a R-code which is not meant for it. This can cause the problem that specific requirements for this R-activity (permits, monitoring, standards...) can be useful for heavy installations, but are not suitable for the "soft" reuse activities. The lack of reuse R-code will raise doubts if reuse does or does not belong to the list of recovery activities that Member States should ensure (article 4). Therefore we

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request that a separate code for “reuse of products/components that have become waste” is added to Annex II. This addition will make clear that reuse of waste is a recognised R-activity and gives the opportunity to introduce specific requirements for reuse installations. The additional “reuse R-code” should define the different reuse activities which include the repair, reconditioning and refurbishment of products, without entailing the remanufacture or upgrade of the product or its components. The addition has as a further benefit that better monitoring of shipment of waste destined for reuse and its final destination becomes possible. Also figures on reuse will become available and can be used as a basis for future policy on reuse.

3. (New) Art. 11 - When ceases reused waste to be waste

- Need for a transparent procedure

The discussion when waste ceases to be waste is also applicable to reuse of waste. We welcome that the Commission will clarify the grey zone, but regret the intention that this clarification will be done through the non-transparent and non-democratic comitology procedure. Therefore we ask for a more transparent procedure and want the procedure to be applied to reuse of waste too. The same applies for Art. 21, which could also be applicable to reuse centres, where the Commission may adopt minimum standards for permits following a comitology procedure.

- Standards for when waste ceases to be waste

The Commission should also ensure that any definitions of and standards for when a waste ceases to be a waste and becomes a product should not make the production and testing costs so expensive that only large centralised processes can make them cost effective. Instead they should recognise the other potential environmental benefits that operating at a small scale and supplying products to local markets can bring and ensure that standards and definitions do not present a disproportionate barrier to small scale activities.

4.(Current) Art. 5 – proximity principle

The existing article on the proximity principle has disappeared but should be maintained to make sure that the proximity principle is applied whenever there is a minimum level of disposal involved in the operation chain to reduce all the external costs (energy consumption, noise, landscape deterioration) of waste transports.

5. (New) Artt. 29-31 Waste Prevention

The introduction of mandatory waste prevention programmes is to be welcomed, as this will have a hugely beneficial impact on the promotion of reuse of non-waste (such as second hand goods and home composting). Not setting minimisation targets at an EU level does however carry the risk that some member states will simply set very unambitious plans. It will be natural for Member States to be more concerned with meeting the requirements of directives with strict targets rather than those set by these minimisation strategies.

6. (Current) Artt. 22-23 The encouragement of SME’s and localised waste re-use and recycling solutions

In order to encourage the development and support of small to medium enterprises the Commission should take every opportunity to promote and support local small scale waste management solutions. This includes SME’s involved in the production, manufacture or processing of products to manage waste on site and in SME’s developing localised waste

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management services. In order to achieve this, the wording of Article 22 should be strengthened to read:

*Member States **shall** exempt the following from the requirement laid down in Article 19(1) **where those activities are deemed to be of a low risk:***

(a) establishments or undertakings carrying out their own waste treatment at the place of production;

*(b) **small scale** establishments or undertakings that carry out waste recovery*

And Article 23 should be changed to read:

*Where ~~a Member State wishes to allow exemptions~~ **are allowed**, as provided for in Article 22, **Member States** it shall ensure that the competent authorities lay down, in respect of each type of activity, general rules specifying the types and quantities of waste that may be covered by an exemption, and the method of treatment to be used.*

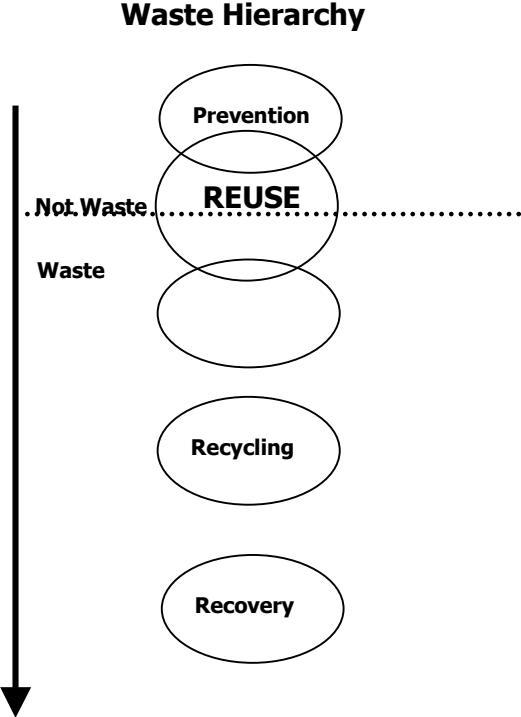
Finally the commission should ensure any transference of materials to different legislative permitting systems, such as IPPC, does not have a negative impact on small scale facilities, and that the principles of articles 22 and 23 are enshrined in this legislation.

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ANNEX I – graphical explanation of how two kinds of reuse (reuse of non-waste and reuse of waste) can be situated in the waste hierarchy



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Annex II Specific remarks on composting

1. Market Development over Targets

The strategy makes the assertion that “The development of quality benchmarks for composting facilities and for compost will increase the prospects for composting” (TSPR p8). This will not however guarantee any increases in the amount of waste being composted. Strict standards could make the production of compost more expensive and less competitive as both a product and waste management option. This could also force many small facilities out of the marketplace by placing a disproportionate legislative burden on them.

2. Integrated Pollution Prevention Control

The simplification of waste management permitting is to be welcomed and the Thematic Strategy should indeed aim to ensure “overlaps are removed” between waste licensing and IPPC. The proposal, “That biological treatment of waste be brought under the scope of the IPPC Directive when it is revised” (TSPR p19) will however lead to continued legislative uncertainty for composting and anaerobic digestion facilities of all scales around Europe.

The composting and anaerobic digestion industry has had to deal with the uncertainties caused by the Animal By-Products Regulations and at precisely the point when the EU should be supporting the development of the industry in order to meet landfill directive it is proposing to put the development of the sector at the mercy of a review which will only commence next year. This means it will be hard for the industry to raise the finances and large companies will be reluctant to risk their own many developing facilities which may not fit within IPPC requirements, because they do not know what these will be.

3. Quality Standards

The development of composting standards at an EU level is bound to conflict with the work of a wide range of organisations from across member states at the national level. Extreme care must be taken that any initiative of this sort does not simply confuse the potential buyers of compost related products.

4. The Definition of when compost is no longer waste

The desire to “reduce unnecessary burdens for low-risk recycling activities “ (TSPR p13) by defining when a product derived from waste materials such as compost ceases to be classified as a waste is to be welcomed. It is very important that care is taken to ensure that any criteria set by this are proportionate to the scale of facility, the relative risk this implies and the market for the compost.

The Waste Framework Directive is very clear in stating “The criteria shall take into account any risks of environmentally harmful use or shipment of the secondary material or substance, and shall be set at a level that guarantees a high level of protection for human health and the environment” (p21). The way in which this is translated into actual product criteria could exclude small scale producers and on-site composting facilities from ever being able to call their compost a product. It is essential that that small scale procedures are encouraged within this process for the other additional environmental benefits they promote.

5. Climate Change

Climate change calculations used in the Thematic Strategy and the regulatory impact assessment do not include the potential for the use of compost to sequester organic carbon

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into European soils. An average of 0.3¹ tonnes of carbon could be absorbed per hectare of agricultural land per annum.

If 20% of the available agricultural land in the EU could be used as a sink, this would result in an absorption potential of 7,800,000 tonnes of carbon, which corresponds to 8% of the total EU reduction objective. An increase of 0.26% of organic carbon in arable soils in a country like Italy would lock the same amount of carbon into the soil that is currently released into the atmosphere in one year by the use of fossil fuels.

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¹ All figures sourced from the Scuola Agraria Del Parco Di Monza presentation to the Composting Association conference 2004

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