

Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

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The Manual should be cited as follows:

Farmer, A.M. (2012) (Editor). Manual of European Environmental Policy. 1043pp. Routledge, London.

Overview of EU policy: Waste

Introduction

Waste is considered of importance environmentally for two key reasons: that without responsible management it can lead to significant environmental risks; and the generation of waste itself represents inefficient use of finite raw materials. Legislation to limit the environmental impact of waste was one of the earliest elements of the EU's environmental acquis. Policies focus on: reducing waste production, that is preventing the generation of waste; limiting the contaminants entering waste streams leading to less hazardous wastes; reducing the levels of disposal of waste and increasing levels of reuse, recycling and recovery of products; limiting shipments of hazardous waste and waste for disposal to third countries; and setting environmental standards for waste management operations to ensure waste is dealt with in a responsible way. This Manual of EU Environmental Policy contains two key chapters of relevance to reducing the environmental footprint of waste. The chapter on waste policies focuses on the management of waste, the environmental requirements with which waste management installations must comply and the big picture policy initiatives focused on waste. Meanwhile, the [chapter](#) focused on resource use and product policy contains details of key measures aimed at preventing waste generation and reducing the use of hazardous materials in products hence in subsequent waste materials.

Evolution of EU waste legislation

Before the mid-1970s, waste was largely regarded as a local matter in all Member States, and the Community had no legislation concerned with waste disposal. The adoption of the Waste Framework Directive [75/442/EEC](#) in 1975 was in part a response to the introduction by some Member States of legislation intended to provide a national framework for waste policy, and sought to set out a coherent set of measures applicable in all Member States. The Framework Directive was followed in the 1970s by Directives on toxic waste, PCB disposal and waste oils. Since then EU law related to waste has continued to expand with Directives regulating different disposal methods from landfill to incineration and regulating specific product-based waste streams including Directives on [batteries](#), [electrical equipment](#) and [vehicles](#), and problematic waste stream such as [mining waste](#).

Since the 1970s the nature of EU waste legislation has continuously evolved. Originally legislation was focused on the very real problems associated with poor infrastructural arrangements for waste collection and disposal, and the consequent pollution risk facing Member States. As the management of waste has improved, or at least legal requirements pertaining to this have been established and accepted (implementation of waste Directives varies considerably across Member States), discussions have increasingly focused on preventing waste, limiting its disposal and promoting reuse, recycling and recovery of wastes. The intention was that once the immediate environment threat from badly managed waste had been addressed the focus should be upon limiting Europe's footprint in terms of resource use more generally.

The face of EU waste law is once again changing, following the adoption of a Directive on Waste [2008/98/EC](#) in October 2008. This Directive resets the baselines for much of waste management, redefines key terms and concepts such as when waste ceases to be waste,

cements the waste hierarchy in EU law (i.e. prevention, preparation for reuse, recycling, other recovery, e.g. energy recovery and then disposal be the order of preference) and sets new targets for recycling and recovery.

Key strategic dossiers: Driving the direction of waste policy

Waste management was highlighted as a priority in the first EU Environmental Action Plan, adopted in 1972. Since that date, it has continued as a priority area for EU action with a number of important Commission policy dossiers having been published to determine and evaluate the direction of EU waste law. Most recently under the Sixth Environmental Action Plan (Decision No [1600/2002/EC](#)) required the development of a Thematic Strategy focused on the waste policy (see below) in particular the promotion of recycling and waste. Directive 2008/98/EC on waste cemented many of the actions identified within the Thematic Strategy into EU law. The Waste Thematic Strategy is complemented by the Thematic Strategy for [Natural Resource Use](#), which focuses on prevention aspects of the waste debate and in particular considering the life cycle impacts of products and materials. Both strategies are scheduled to be reviewed in 2010.

1989: Community waste strategy

The Commission published its first broad Communication on waste, entitled *A Community Strategy for Waste Management*, in September 1989 ([SEC\(89\)934](#)). It built on the waste management elements included in the Community's Fourth Action Programme and outlined five guidelines: prevention, recycling and reuse, optimization of final disposal, Regulation of transport and remedial action. Prevention was presented as the primary objective, to be achieved through the development of clean technologies and waste minimization. The other guidelines were envisaged as a hierarchy of 'next-best' options.

The final section of the strategy paper considered waste management in the context of the single market, with particular regard to the movement of waste and the risk that 'in a Community without internal frontiers the flow of waste towards lower-cost disposal plants may become a flood'. Harmonizing disposal standards was seen as a priority but the Commission stated that 'the need to protect the environment may lead to a restriction of movements', favouring waste disposal 'in the nearest suitable centres, making use of the most appropriate technologies to guarantee a high level of protection for the environment and public health'. This has become known as the 'proximity principle'.

The Council adopted a Resolution on waste policy in May 1990 ([90/C122/02](#)), welcoming and supporting the Commission's strategy. It urged the further development of clean technologies and products and invited the Commission to bring forward a range of proposals and to report on progress by the end of 1992. The Resolution also reinforced the strategy paper's bias in favour of minimizing movements of waste (the proximity principle), reducing the quantity and toxicity of waste sent to landfill and developing an 'adequate and integrated network of disposal facilities'. The priorities in the strategy paper and Resolution were reflected in the strengthened Waste Framework Directive [91/156/EEC](#), which placed a new obligation on Member States to establish a network of disposal installations with the aim of self-sufficiency in waste disposal. The Fifth Action Programme also aimed to reinforce the waste strategy, proposing targets of stabilizing annual waste generation at 300 kg *per capita*,

recycling or reusing 50 per cent of paper, glass and plastics, and ending exports outside the EC for final disposal by 2000.

Under the Sixth Environmental Action Programme (6EAP), a number of Thematic Strategies were devised. Two of the resulting strategies are waste related dealing with waste prevention and recycling and with natural resources (see below).

1995: Review of Community waste management policy

Towards the end of 1995, the Commission signalled the start of a possible change in direction for waste management with a report ([COM\(95\)522](#)) that set out its approach to establishing 'a comprehensive policy to deal with all waste in the Community'. This was prepared in response to the Council's Resolution of May 1990 on waste management policy, and should have been released by the end of 1992.

The report highlighted the difficulties created by the lack of a standard waste nomenclature in the Member States. The Commission in 1999 proposed a Regulation on waste statistics ([COM\(1999\)31](#)), aimed at generating consistent reports from Member States, to address this problem (see above and [waste statistics](#)). A number of other difficulties in implementing the Community's waste policy were also outlined in the report. They included failure by Member States to implement the provisions of waste Directives, lack of reliable data with which to justify proposals on cost/benefit grounds, and imprecise legal acts and ambiguous concepts within the Community's waste policy itself. The report also concluded that consultation on waste matters was failing to achieve the desired results, because the committees through which consultation was pursued did not bring together the appropriate people.

In the conclusions of the report, the Commission stated its proposal to produce a communication setting out a future waste strategy which would not be confined to legislation. This was achieved in July 1996 when the Commission's Communication on the review of the Community's strategy for waste management was published ([COM\(96\)399](#)). Like the previous strategy, this established a hierarchy of priorities for waste management with prevention being the preferred option, followed by increased recovery (with material recovery given preference over energy recovery) and then safe disposal. The implementation of the hierarchy was to be guided by the consideration of the 'best environmental solution' taking into account economic and social costs. The instruments envisaged included regulatory and economic instruments, improved statistics, waste management plans, life-cycle analysis and eco-balances.

In announcing the document, Environment Commissioner Bjerregaard emphasized the important role producer responsibility for products must play in any future EC waste management strategy. Waste management concerns should be taken into consideration from the product's design and conception. In support of this the Commission was positioned to take action to:

- Promote clean technologies and products and the use of less raw material in processes and products;
- Reduce the generation of hazardous waste by limiting or banning certain heavy metals or dangerous substances in products and processes;
- Promote the use of economic instruments able to influence waste prevention without distorting competition; and

- Further develop the [eco-audit](#) and [eco-label](#) schemes.

The document also covered the issue of waste shipments. Within the framework of the Basel Convention, the Commission stated its commitment to phase out by 1998 exports of hazardous waste for recovery to non-OECD countries. This has now been achieved in the context of Regulation (EEC) No [259/93](#), and later Regulation (EC) No [1013/2006](#).

The new strategy additionally noted the need to ensure the effective implementation and enforcement of existing waste legislation, which had been problematic in the past. The Commission returned to this topic in 2000, when it published a consolidated report on progress in the implementation of several waste Directives throughout the Community ([COM\(1999\)752](#)), and did not find the situation greatly improved. This consolidated report was prepared under the 1991 '[reporting Directive](#)'. It covered the period from 1995 to 1997 and was based on individual Member State reports on the following Directives:

- The [Waste Framework Directive](#);
- Directive [91/689/EEC](#) on hazardous waste;
- Directive [75/439/EEC](#) on waste oils; and
- Directive [86/278/EEC](#) on sewage sludge.

The Member States' reports were to be based on questionnaires prepared by the Commission and should have been submitted by 30 September 1998. However, reporting and implementation was far from satisfactory. The consolidated report noted that the Commission had issued 26 letters of formal notice and 15 reasoned opinions, and had begun 11 court proceedings. These related to a range of perceived failures including incomplete transposition and non-conformity in application as well as failure to submit reports. Only Austria and Finland were not subject to any infringement proceedings.

For the first time, the Commission worked with the European Environment Agency's (EEA) European Topic Centre on Waste (ETC/W) to compile the report. However, even with the involvement of the EEA, the Commission drew attention to the limits of a reporting mechanism dependent on reports compiled by Member States themselves, pointing out (a little sceptically) that this approach 'limits the possibility to identify omissions of applications or weaknesses of existing Community waste legislation'.

Despite the use of the Standardized Reporting Directive [91/692/EEC](#) (see section on implementation and enforcement of legislation) as a mechanism to improve consistency, the Commission cited the lack of common approaches and standardized methodologies as a major problem and a barrier to a Community-wide evaluation of progress. Member States differed widely in their interpretation of the waste hierarchy, approaches to collection of waste statistics, implementation of waste management plans, and the definition of 'waste' and 'hazardous waste'.

The report envisaged a number of reforms to improve implementation of the waste Directives and the collection of information on waste management and statistics. These included some modifications to the legislation itself, plus development of a set of guidelines for competent authorities to improve the quality of waste management planning. In addition, ETC/W will aim to establish uniform databases, which can be used for future reporting.

In November 2009 the Commission issued its latest general report on the implementation of EU waste legislation, covering the following Directives: the [Directive on Waste](#), the [Hazardous Waste Directive](#), the [Waste Oils Directive](#), the [Sewage Sludge Directive](#), the [Packaging Directive](#), the [Landfill Directive](#) and the [WEEE Directive](#). The report covers the period 2004–2006, and was accompanied by separate reports on reports on the [Waste Shipment Regulation](#) and the [End of Life Vehicles Directive](#). The Commission concluded that waste legislation is still being poorly implemented and enforced in many Member States, in particular the Waste Framework Directive, the Landfill Directive and the Waste Shipment Regulation. Key implementation problems include: lack of waste treatment infrastructure; lack of separate waste collections; missed reuse, recycling and recovery targets (e.g. for WEEE, ELV and packaging); and illegal shipments of waste. In some of the Member States which joined the EU after 2004 (and indeed some of the older Member States) additional problems include: heavy reliance on landfilling; inefficient diversion of biodegradable waste from landfills; inadequate waste treatment infrastructure; and lack of societal habits to separate and recycle waste. Some success stories were also highlighted, however: continuously increasing recycling and recovery rates for packaging waste; an increase in tyre recovery to 95 per cent following a landfill ban for waste tyres; and reduced health risks due to tighter controls on hazardous substances in products such as electronics and vehicles. The Commission is also continuing to pursue Member States that breach EU environmental law in the European Court of Justice – over 20 per cent of all environmental infringement cases are related to waste management – in addition to supporting Member States in better implementation through awareness raising, information exchange, guidance documents and inspection activities. Finally, the Commission is studying the feasibility of creating an EU Waste Implementation Agency to help address the problem of inadequate implementation and enforcement deficit.

2005: Thematic Strategy on waste prevention and recycling

The Sixth Environmental Action Programme called, by 2012, for further policy measures on waste prevention and management to be developed and implemented, and for further work on the promotion of recycling and addressing key waste streams. The waste prevention and recycling Thematic Strategy became the key vehicle for taking forward discussions in relation to these initiatives. After repeated delays the Waste Thematic Strategy was published by the European Commission in December 2005 ([COM\(2005\)666](#)), heralded as a mechanism for making the ‘EU a recycling society’. A proposal to revise the Waste Framework Directive [75/442/EEC](#) accompanied the Waste TS upon its publication. There is a close dynamic between the Waste Thematic Strategy and the [Natural Resources Thematic Strategy](#), with the former being used to implement many of the aims and objectives expressed in the latter. It should be noted that many environmental groups were disappointed with the content of the Waste Thematic Strategy, as they had hoped for a dossier that was more forward thinking and revolutionary.

The principle of taking a life cycle approach to waste management (discussed at length in the natural resources Thematic Strategy – see below), that is considering how to minimize waste throughout a product's life cycle and considering all the impacts of a treatment option over time, is central to the Waste TS. It attempts to set out a new and improved approach to EU waste policy. Alongside life cycle approaches other key principles include the shift towards a materials-based approach, a new focus on the prevention of waste and a shift towards more flexible mechanisms of policy making/standard setting at the EU level – further details of these principles and measures within the strategy are outlined in Box 1.

One of the key impacts of the Waste Thematic Strategy upon the Member States is the requirement to increase the focus on waste prevention. Member States are required to develop publicly available waste prevention programmes. The detail of such action remains unclear and, fundamentally, the level of ambition, both in terms of requirements and enforcement of such requirements, remains vague. The Commission intends that the waste prevention programmes will ‘increase the focus of policy makers ... on prevention thereby triggering an increase in waste prevention policy’. The requirement to produce waste prevention programmes is included in the Directive on Waste 2008/98/EC, but there are no binding targets or requirements, beyond the existence of the plans.

The Waste Thematic Strategy heralded a significant shift in terms of EU policy making in the waste field, with a move away from hard law to the use of criteria and standards. These changes will also be implemented via Directive 2008/98/EC. It is proposed that standards and criteria be developed through the use of comitology, by drawing on the work of the European standardization body CEN ‘or other similar sources’. Not only, therefore, does the Waste Thematic Strategy foresee a shift in the type of measures emerging but also a shift in terms of those making the decisions, away from the European Parliament and Council and towards more *ad hoc* groups of experts designated by the Member States and (as far as standardization is concerned) the private sector. This change in policy making means a potentially more dynamic legislative environment with the emergence of more specific detailed standards

While the Waste Thematic Strategy did propose a variety of suggested policy actions (see Box 1) and ideas of interest, the timetable and the level/type of action required were often vague. Proposed action was anticipated well into the future – Table 1 outlines the timetable for action. Standards and criteria are yet to be developed, meaning there is uncertainty over requirements. Some Member States were hostile to approaches taken in the Waste TS, especially changes proposed to the Waste Framework Directive [75/442/EEC](#); the revision of which was subject to considerable negotiation between the European Council and Parliament during the approval process.

Table 1. Timetable for action under the waste thematic strategy

Action	Date	Status
Proposal for a Directive amending the Waste Framework Directive, merging it with the Hazardous Waste Directive and repealing the Waste Oils Directive regeneration priority Proposed together with the Waste TS	N/a	Completed 2008 with Directive 2008/98/EC
Report on the implementation of Directive 94/62/EC on packaging and packaging waste	2006	Completed 2006
Review of the targets set under Directive 2000/53/EC on end-of-life-vehicles	2006	Completed 2007
Proposal for a Directive bringing together the three Directives on waste from the titanium dioxide industry into one Directive	2006	Completed 2007 with proposed recast of IPPC Directive 2008/1/EC
Publication of guidelines, based on the jurisprudence of the European Court of Justice, on the issue of when by-	2006	Completed 2007 with COM(2007)59

products should or should not be considered as waste		
Publication of guidelines for Member States on applying life-cycle thinking to the management of biodegradable waste that is diverted from landfill	2006	Due to be finalised end 2010
Improving the knowledge base on impacts of resource use, waste generation and waste management and more systematic forecasting and modelling	Starting in 2006	Ongoing
Proposal for the clarification and extension of the scope of the Directive on Integrated Pollution Prevention and Control (IPPC) to additional waste management activities including biological treatment for recovery of waste, preparation of hazardous waste for incineration and of incineration slags for recovery	2007	Completed 2007
Proposal for a revision of Directive 86/278/EC on the use of sewage sludge in agriculture	2007	Proposal expected in 2011
Publication of basic guidelines to make life-cycle tools easily useable in waste policy making, with an agreed approach and methodology	2007	Due to be finalised end 2010
Publication of guidelines on certain provisions of the waste shipment Regulation to combat sham recovery	2007	Ongoing
Publication of guidelines on minimum environmental standards for permits of installations that are not covered by the IPPC Directive and on Best Available Techniques for the mixing of hazardous waste	2007	Completed
Assessment of the state of play and of the need for additional measures to stimulate the move to a European recycling society	2007	Completed 2008
Review of the targets under Directive 2002/96/EC on waste electrical and electronic equipment	2008	Proposal currently under discussion
Adoption of a first set of quality standards for defining when certain waste flows cease to be waste, starting with compost and recycled aggregates Date subject to the entry into force of the revised Waste Framework Directive	2008	Ongoing; first proposal on scrap metals in comitology
Identifying an efficiency threshold for incinerators to define whether they are to be classified as recovery or disposal	Revision of WFD	Completed with efficiency threshold in Annex II of Directive 2008/98/EC

Box 1. Key features of the waste thematic strategy

Underlying principles:

- Taking a life cycle approach to policy making, highlighting the importance of eco-design.
- The shift towards a **materials-based approach** in waste policy, away from the mechanisms focused on particular types of end product such as under the Waste Electronic and Electrical Equipment Directive (WEEE) Directive 2002/96/EC.
- A new focus on **waste prevention**, although it should be noted that action on this is envisaged to be the **responsibility of Member States**, under the guise of proposed Member State waste prevention programmes.
- It is proposed that a **comitology committee and the European committee for Standardization (CEN)** be made use of to decide levels of standards for environmental quality and waste stream-based criteria for when waste ceases to be waste. This represents a move away from the traditional approach to standard setting within waste policy through the European Parliament and the Council.

Key policy changes:

- Proposed amendments to the definition of waste in terms of when waste ceases to be waste – it is proposed that waste stream-based environmental criteria be developed and defined for problematic streams. The criteria would be established on a ‘fit for use’ basis – and a change to the definition of recovery versus disposal with recovery now to be focused on the concept of substitution of resources in the economy.
- An efficiency threshold is proposed for incinerators to define whether incineration of municipal solid waste is to be classified as recovery or disposal.
- A new approach of EU minimum quality standards for recycling is also suggested, designed to stimulate demand for recycled material; beyond this, however, no new measures on recycling have been proposed, with the Commission suggesting a break in the development of legislation until 2010 to allow the implementation of existing measures;
- The extension of the IPPC Directive 2008/1/EC [Integrated pollution prevention and control] to selected waste management activities.
- Action on biowaste is highlighted as of importance under the 6EAP, however, rather than proposing a Directive (as originally anticipated), the Commission intends to develop compost quality criteria and guidelines on the application of life cycle thinking to biowaste, and to invite Member States to rethink national strategies in light of this.
- The proposal for the Waste Oils Directive 75/439/EEC and Hazardous Waste Directive 91/689/EEC to be amalgamated into the Waste Framework Directive, a measure presented as a simplification initiative under the Commission's ‘Better Regulation’ agenda.

In January 2011 the Commission published a Report ([COM\(2011\)13](#)) reviewing progress towards achieving the Strategy’s objectives. It concluded that the Strategy has played an important role in guiding policy development. Significant progress has been achieved in: the improvement and simplification of legislation; the establishment and diffusion of key

concepts such as the waste hierarchy and life-cycle thinking; increasing the focus on waste prevention; efforts to improve knowledge; and setting new European collection and recycling targets. In terms of waste management performance, recycling rates have improved, the amount of waste going to landfill has decreased, the use of hazardous substances in some waste streams has been reduced, and the relative environmental impacts per tonne of waste treated have decreased. These achievements are however offset by the negative environmental impacts caused by increased waste generation.

Efforts are still needed to: properly implement and enforce existing EU waste legislation (the Commission suggests development of a ‘proactive verification procedure’ and early warning system on compliance with key EU targets, based on national waste management plans); define new and more ambitious (material-specific) prevention and recycling targets; improve the knowledge-base on waste and resources; support national actions on waste prevention; increase coordination of national inspection activities; promote optimum combinations of economic and legal instruments for waste management; improve the competitiveness of EU recycling industries and develop markets for secondary raw materials; better prevent illegal waste exports; improve stakeholder participation and raise public awareness on waste; promote life-cycle thinking (e.g. through more consistency between waste and product design policies). The Commission will make further proposals, including concrete steps to be taken, in 2012.