



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.03.1999
COM(1999)116 final

97/0085 (SYN)

Re-examined proposal for a

COUNCIL DIRECTIVE

on the landfill of waste

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

On 5 March 1997 the Commission adopted a Proposal for a Council Directive on the landfill of waste (COM (97) 105 final – SYN 97/0085 – O.J. C156, 24.05.97).

The Economic and Social Committee adopted its Opinion in October 1997 (O.J. C 355, 21.11.97).

The European Parliament delivered its Opinion on first reading on 19 February 1998 (COM (97) 105 – C4-0160/97 – 97/0085 (SYN)).

The Commission presented on 26 March 1998 an amended Proposal (COM (98) 189 final, O.J. C 126, 24.04.98).

On 4 June 1998, the Council formally adopted its common Position (O.J. C 333, 30-10-98).

The European Parliament examined the Council Common Position at second reading on 9 February 1999 and approved it subject to 19 amendments.

Pursuant to Article 189C (d) of the EC Treaty, the Commission submits the present re-examined Proposal for a Council Directive on the landfill of waste. This re-examined Proposal incorporates a number of the above-mentioned amendments from the European Parliament.

Amendments accepted by the Commission

Amendment 1 as well as Amendments 3 and 4 which represent proposals for new recitals recalling the waste hierarchy, the promotion of the use of economic instruments if appropriate and the integration of the cost of the financial security in the price to be charged for the landfilling of waste are acceptable since these reflect also the Community Waste Strategy.

Amendment 5 which clarifies the definition of liquid waste and hereby, removes a possible area of misinterpretation of this definition is acceptable.

Concerning Article 5 and the reduction targets for biodegradable waste, the Commission supports Amendment 8 which makes the Common Position more stringent by way of changing the last reduction target for biodegradable waste back to 25% which was the end target of the Commission Proposal. Amendment 11 which gives only a two year derogation for those countries which today landfill more than 80% also increases the level of environment protection and is accordingly acceptable.

Also, Amendment 17 makes the Common Position more stringent by changing the time frame for existing landfills to comply with the Directive to 5 years. This is in line with the Commission Proposal and acceptable for the Commission.

Amendment 12 which suggests that the cost of the financial security is included in the price, which is charged for the landfilling of waste constitutes an improvement of this obligation and is fully accepted.

Amendment 14 ensures that Member States monitor the waste which is landfilled in landfill sites which are exempted from the provisions of the Directive and to keep these data public available. This Amendment represents an improvement which brings further transparency into procedures which the Commission supports.

Amendment 15 introduces further specifications of the obligations for the operator during the aftercare period. The Commission can accept this amendment if the last phrase is to be understood so that the 30-year time period which is imposed on the landfill operator for the closure and aftercare period is imposed without prejudice to any national legislation that may be in place in Member States as regards liability of the waste generator. Therefore, Amendment 15 is only accepted with the redrafted wording "However, the 30 year period should be imposed on the landfill operator without prejudice to any national legislation as regards liability of the waste generator".

Amendment 16 which underlines that existing landfills which do not have a permit according to Directive 75/442/EEC on waste as amended by Directive 91/156/EEC must be closed down. This is in line with existing Community Waste Legislation and accordingly acceptable.

The binding minimum distance to landfills as laid down in the Commission Proposal was not included in the Common Position. Therefore, the Commission supports Amendment 18 which re-introduces a suggested guideline for a minimum distance to recreation areas, waterways, water bodies and other agricultural or urban sites.

Amendments not accepted by the Commission

Amendments 2 and 13 calls on the Commission to take initiatives in the form of a new Directive on composting as well as a Proposal on economic instruments. The Commission cannot support amendments which includes such detailed commitments.

Amendments 6 and 7 introduce exemptions for the use of non-hazardous waste in redevelopment and construction work as well as the deposit of non-hazardous waste from mining operations from the scope of the Directive. The Commission cannot support these amendments since a sufficient environmental protection cannot be ensured when non-hazardous waste is disposed of without obligation to fulfil the provisions of the Directive.

Amendments 9 and 10 give a possibility to review and adjust every reduction target for biodegradable waste. In order for Member States to be committed to a real change as well as to plan for the long term setting up of new waste management systems the targets need to be legally binding. Therefore, the Commission cannot agree to the possibility of reviewing and adjusting the targets.

Amendment 19 seeks to change technical specifications in the Annexes. This is not acceptable for the Commission, as the Committee as laid down in Article 16 of the Directive will be established in order to make such specifications.

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**on the landfill of waste
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COMMON POSITION

AMENDED TEXT

Recital 2

Whereas the Council Resolution of 9 December 1996 on waste policy considers that, in the future, only safe and controlled landfill activities should be carried out throughout the Community ;

Whereas the Council Resolution of 9 December 1996 on waste policy considers that, in the future, only safe and controlled landfill activities should be carried out throughout the Community and that landfill of waste is the option of last resort in the hierarchy of prevention, recovery, recycling, incineration and landfill ;

Recital 5a (new)

Whereas, in order to facilitate the achievement of the objectives of this Directive it may be appropriate to use economic instruments such as a tax on waste going to landfill ;

Recital 29

(29) Whereas measures should be taken to ensure that the price charged for waste disposal in a landfill covers all the costs involved in the setting up and operation of the facility, including as far as possible the financial security or its equivalent which the site operator must provide, and the estimated cost of closing the site including the necessary aftercare;

(29) Whereas measures should be taken to ensure that the price charged for waste disposal in a landfill covers all the costs involved in the setting up and operation of the facility, including the financial security or its equivalent which the site operator must provide, and the estimated cost of closing the site including the necessary aftercare, so as to ensure that

these prices reflect the true costs for the whole life-time of a landfill and that these costs are not borne by the public purse;

Article 2(q)

(q) "liquid waste" means any waste in liquid form including waste waters but excluding sludge;

(q) "liquid waste" shall mean any waste in liquid form where a liquid is defined as a fluid containing < 45% solids by weight and flow characteristics to be defined following determination of a test method in accordance with the procedure laid down in Article 16.

Article 5 (2) c

Not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35% of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised EUROSTAT data is available.

Not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 25% of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised EUROSTAT data is available.

Article 5 (2) fifth paragraph

Member States which in 1995 or the latest year before 1995 for which standardised EUROSTAT data is available put more than 80% of their collected municipal waste to landfill may postpone the attainment of one or more targets set out in paragraphs (a), (b), or (c) by a period not exceeding four years. Member States intending to make use of this provision shall inform in advance the Commission of their decision. The Commission shall inform other Member States of these decisions.

Member States which in 1995 or the latest year before 1995 for which standardised EUROSTAT data is available put more than 80% of their collected municipal waste to landfill may postpone the attainment of the targets set out in paragraphs (b) or (c) by a period not exceeding two years. Member States intending to make use of this provision shall inform in advance the Commission of their decision. Any failure to inform shall be subject to penalties. The Commission shall inform other Member States and the European Parliament of these decisions.

Article 10

Member States shall take measures to ensure that all of the costs involved in the

Member States shall take measures to ensure that all of the costs involved in the

setting up and operation of a landfill site, including as far as possible the cost of the financial security or its equivalent referred to in Article 8(a)(iv), and the estimated costs of the closure and aftercare of the site for a period of at least 30 years shall be covered by the price to be charged by the operator for the disposal of any type of waste in that site. Member States shall ensure the collection of any necessary cost information.

setting up and operation of a landfill site, including the cost of the financial security or its equivalent referred to in Article 8(a)(iv), and the estimated costs of the closure and aftercare of the site for a period of at least 30 years shall be covered by the price to be charged by the operator for the disposal of any type of waste in that site. Member States shall ensure transparency in the collection and use of any necessary cost information.

Article 11 (2) second sub-paragraph

-a register on the quantities of waste that are deposited at the site be kept.

- a register to be kept, and be publicly available, on the quantities of waste that are deposited at the site.

Article 13 (d)

(d) for as long as the competent authority considers that a landfill is likely to cause a hazard to the environment, the operator of the site shall be responsible for monitoring and analysing landfill gas and leachate from the site and the groundwater regime in the vicinity of the site in accordance with Annex III.

(d) for as long as the competent authority considers that a landfill is likely to cause a hazard to the environment, the operator of the site shall be responsible for monitoring and analysing landfill gas and leachate from the site and the groundwater regime in the vicinity of the site in accordance with Annex III, this being for a period of at least 30 years after closure of the landfill. The competent authority may extend or shorten the said period if the operator is able to demonstrate, on the basis of the overall management programme laid down in the Annexes, that the landfill no longer constitutes an active danger to the environment. However, the 30-year period should be imposed on the landfill operator without prejudice to any national legislation as regards liability of the waste generator.

Article 14, before first paragraph, new paragraph

Member States shall close down any existing landfill sites which have not been granted a permit under the above-mentioned waste framework directive.

Article 14, first paragraph

Member States shall take measures in order that landfills which have been granted a permit, or which are already in operation at the time of transposition of this Directive, may not continue to operate unless the steps outlined below are accomplished as soon as possible and within eight years after the date laid down in Article 18(1) at the latest :

Member States shall take measures in order that landfills which have been granted a permit, or which are already in operation at the time of transposition of this Directive, may not continue to operate unless the steps outlined below are accomplished as soon as possible and within five years after the date laid down in Article 18(1) at the latest :

Annex I, 1.1.(a)

(a) the distances from the boundary of the site to residential and recreation areas, waterways, water bodies and other agricultural or urban sites ;

(a) the distances from the boundary of the site to residential and recreation areas, waterways, water bodies and other agricultural or urban sites, using, as suggested guidelines, a minimum of 0.5 km in the case of municipal waste landfills and 2km in the case of hazardous waste landfills ;

Amendments not accepted by the Commission

(Amendment 2)
Recital 4a (new)

(4a) Whereas it is ecologically more sensible to make compost and biogas from biodegradable waste than to landfill or incinerate it ; whereas the Commission is therefore asked to put forward a Directive on composting and biomethanisation in order to encourage this type of industry and to harmonise the quality requirements

(Amendment 6)
Article 3(2), 2nd indent

- the use of inert waste which is suitable, in redevelopment/restoration and filling-in work, or for construction purposes, in landfills,

- the use of non-hazardous waste which is suitable, in redevelopment/restoration and filling-in work, or for construction purposes, in landfills,

(Amendment 7)
Article 3(2), 4th indent

- the deposit of unpolluted soil or of non-hazardous inert waste resulting from prospecting and extraction, treatment, and storage of mineral resources as well as from the operation of quarries.

- the deposit of unpolluted soil, non-hazardous waste or inert waste resulting from prospecting and extraction, treatment, and storage of mineral resources as well as from the operation of quarries.

(Amendment 9)
Article 5(2), 1st subparagraph a (new)

Member States shall report to the Commission at each of the three stages on the success with which these targets have been met. The Commission shall then report to the European Parliament within three months on the extent to which the targets are being met, and on any adjustments to the Directive which may need to be made in the light of experience. These reports shall not affect the general reporting requirements on implementation of the Directive as a whole set out in Article 15.

(Amendment 10)
Article 5(2), 2nd subparagraph

Two years before the date referred to in paragraph (c) the Council shall reexamine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection.

Two years before the dates referred to in paragraphs (a), (b) and (c) the Council shall reexamine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets, accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection.

(Amendment 13)
Article 10a (new)

Article 10a

The Council, on the basis of a proposal from the Commission, may adopt economic instruments such as a tax on waste going to landfill. In the absence of Community measures, Member States are encouraged to adopt such measures to promote the objectives of this Directive.

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