

Revision of the EU's Waste Framework Directive

Turning point for

For Europe's recycling industry, it is being hailed as the most important piece of legislation in more than 30 years. The EU Waste Framework Directive was formally adopted by the Council of Ministers in October last year, but what is likely to be its practical impact? Recycling International spoke to three experts – from the European Parliament, the European Commission and the BIR world recycling organisation – to gauge their opinions on the content and importance of the revision.

This year may hold little promise for recyclers from the trading perspective but, from the legislative standpoint, 2009 could well prove to be one of the most positive in the modern history of the European recycling industry. Although the EU's Waste Framework Directive (WFD) was formally adopted towards the end of 2008, much of the detail associated with this ground-breaking legislation will be fleshed out during the course of the current year.

The revision is expected to boost the recycling industry in two key regards: firstly, it provides official recognition of the vital role of recycling in the waste management hierarchy; and secondly, it offers the prospect of clarifying the precise point at which a material designated as 'waste' ceases to be a waste and therefore attains product status. According to the BIR world recycling organisation's Environmental & Technical Director Ross Bartley, the new WFD also encapsulates our modern understanding of how Europeans should manage materials sustainably and offers much greater legal clarity in its definitions of, for example, 'recovery' and 'recycling'.

The revision represents 'a much-needed improvement' on its predecessor in that it is 'modernised, simplified and easier to understand', he continues. It should be considered 'a good compromise' given the limited legislative time and the complexity that could have been added into it.

Balanced package

This is 'a pretty balanced package', agrees Dr Caroline Jackson MEP, Rapporteur of the European Parliament's Committee on the Environment, Public Health and Food Safety. As the leader of the WFD revision process in the Parliament, she applauds as 'very desirable' the fact that the aforementioned hierarchy has become enshrined for the first time ever in a legal text and that 'it builds in recycling as a very important partner of waste management that cannot be neglected'. To apply as a priority order in waste prevention and management legislation and policy, the hierarchy places recycling behind prevention and preparation for reuse, but ahead of other forms of recovery – such as energy recovery – and disposal.

In common with Mr Bartley, Dr Jackson credits the WFD revision with devising improved and clearer definitions of key concepts. For example, 'recycling' is defined as any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.

Meanwhile, Andreas Versmann from Unit G.4 – Sustainable Production and Consumption of the

recyclers in 'waste' debate



End-of-waste: processed aluminium scrap for classification as product.

European Commission's DG Environment says the revision constitutes 'a modernised framework for waste policies' and 'a keystone' in the building of a Recycling Society. 'It clearly draws a line between recycling and energy recovery and back-filling, and contains more tools to support recycling including a legally-binding waste hierarchy which was not the case with the old directive'. According to Mr Versmann, the WFD is linked to the concept of life-cycle thinking, sustainability and the decoupling of economic growth from waste generation and environmental impact. 'Recycling is very important in this,' he notes.

End-of-waste status

As mentioned above, Article 6 of the WFD revision answers a long-cherished desire within the recycling industry for a legal pathway to determine when a material designated as 'waste' ceases to be a waste. While recyclers are prepared to accept strict waste controls on materials entering their processes, 'they want what exits their processes - materials that they have sorted and as necessary cleaned and processed and so added value to - to be reclassified as a product,' observes Mr Bartley. The next stage of this process - and one eagerly awaited by the recycling industry - involves the European Commission setting out criteria whereby certain processed wastes and scrap cease to fall under the definition of 'waste'. According to Mr Versmann, the aim of these 'end-of-waste' criteria will be to provide 'legal certainty' and to help the recycling markets develop. 'We want to reduce unnecessary administrative burdens for the recycling industry by restricting the scope of legislation to

those waste management procedures where we have waste-related risks,' he states.

Mr Versmann says the process of formulating these criteria for specific materials is being treated 'as a high priority'. A study has already been conducted into the methodology for creating criteria, and the feasibility of this methodology has been tested for aggregates, metal and compost. 'We want to discuss the methodology with the Member States in March (this year),' he explains. If approval is forthcoming for this approach, he expects to see end-of-waste criteria begin to emerge for certain materials by the end of 2009 at the earliest.

'Recycling will stay on the agenda in many ways.'

Outline conditions for these criteria are: existing use for specific purposes; evidence of market or demand; compliance with existing legal and technical requirements; and no adverse health or environmental impacts. The European Parliament has put a priority tag on the consideration of end-of-waste specific criteria at least for aggregates, paper, glass, metal, compost, tyres and textiles.

Concept revived

According to Dr Jackson, the notion of 'an end of waste' had been included by the European Commission in its initial proposals but this was subsequently removed by the Council of Ministers. However, the concept was revived by MEPs and the Parliament will now look to apply pressure on the Commission to ensure the process of setting end-of-waste criteria takes place within a reasonable timescale, she explains.

While emphasising that the criteria must ensure a material leaves the realms of 'waste' in a safe form, Dr Jackson adds: 'It's got to be good for the recycling industry if (its materials) can enter the market as a product.'

Targetting 50% recycling rate

The WFD revision also identifies new recycling targets including, by 2020, the preparation for reuse and recycling of a minimum 50% by weight of at least paper, metal, plastic and glass from households, and possibly other origins as far as these waste streams are similar to waste from households - a description which Dr Jackson takes to refer to commercial waste. Also by 2020, a minimum 70% by weight of non-hazardous construction and demolition waste will be required to be recycled.

Dr Jackson welcomes the fact that the final revision document features 'very clear' quantitative targets as well as a specific deadline for achieving them. She considers it 'odd' that 'the Council of Ministers didn't want recycling targets at all' given that the Commission's 2005 Thematic Strategy on Waste Prevention and Recycling was pushing towards a Recycling Society. This reluctance led to 'tough negotiations' between the European Parliament and the Council of Ministers as the latter considered the 50% target to be 'far too high'.

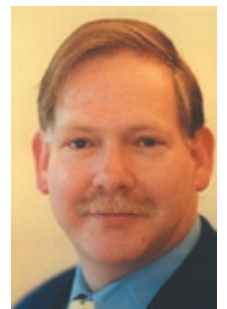
Dr Jackson believes the 50% target will provide further impetus for recycling. At the same time, she hopes the recent slow-down in Chinese consumption will spark further development



Dr Caroline Jackson MEP, Rapporteur for the Waste Framework Directive revision: 'I hope that punitive action will be taken where appropriate.'



Andreas Versmann of the EU Commission's DG Environment: 'The revised Waste Framework Directive is a keystone in the building of a Recycling Society.'



Ross Bartley, BIR Environmental & Technical Director: 'The revision of the Waste Framework Directive is a collaborative effort and a good compromise.'



End-of-waste: shredded ferrous scrap for classification as product.

of outlets for recyclables in domestic markets. The targets 'support recycling', agrees Mr Versmann at the European Commission. Figures from the EU Member States highlight 'big discrepancies' in recycling performance, with some countries 'very advanced' and others with landfill still accounting for more than 90% of their waste. The aim is to move Member States 'up the waste hierarchy' by setting targets that will be 'challenging' for some of them. Still to be established are 'exact calculation methods' for the purposes of the targets; these will be finalised 'before 2010', he suggests.

Punitive action possible

It is possible penalties will be imposed on Member States for non-implementation on time, incorrect implementation or not meeting the recycling targets in time. Dr Jackson expresses the hope that punitive action will be taken where appropriate, claiming that the European Commission often persists with 'gentle persuasion' for too long before considering court action against non-compliant Member States. The targets are legally binding and so absence of appropriate measures to achieve them could ultimately result in a Member State being taken to court, but this is a last resort that the Commission hopes to avoid through monitoring progress, according to Mr Versmann. In 2014, the Commission will review the recycling targets to see whether any amendment would be necessary or beneficial, he adds.

The WFD revision also calls on Member States to 'take measures to promote high-quality recycling' and for separate collection to be set up at least for paper, metal, plastic and glass by the year 2015. However, it also states that 'waste shall be collected separately if technically, environmentally and economically practicable and shall not be mixed with other waste and other

material with different properties' - a proviso which, according to Dr Jackson, leaves the door open for co-mingled collections.

More measures necessary

On this same point, Mr Versmann confirms that separate collection 'is not a strict requirement' within the WFD revision, although experience suggests 'high-quality recycling requires separate collection'. This links to the end-of-waste debate, he adds, since the above-mentioned specific criteria 'will set quality criteria for recyclables' based on European quality standards. According to BIR's Ross Bartley, the revision's clear encouragement of separate collection 'will improve the quality of certain collected recyclables such as textiles, paper and glass'.

Mr Versmann underlines that approval of the WFD revision is one step in an on-going pro-recycling process. Recycling will 'stay on the agenda' in many ways, he says, such as through the debate on exact calculation methods with regard to the recycling targets as well as the 2014 review of those targets.

'Recycling is a very important partner of waste management'

The European Commission official also acknowledges that 'other measures are necessary' to help develop a true Recycling Society. He notes by way of example the need to encourage both eco-design and the increased use of recycled material in new products.

Reward for industry's efforts

The EU Waste Framework Directive dates back more than 30 years. However, according to BIR's Environmental & Technical Director Ross Bartley, it took some time for recyclers to realise that their final products - materials they had received/collected, sorted and processed - were entangled in waste legislation.

'The revision of the Waste Framework Directive in 1991 and subsequently a number of far-reaching European Court of Justice cases brought the message home to recyclers that what they were doing in bringing materials back into the economic cycle - and so adding value to them - was much different from companies that were paid to landfill or incinerate waste.'

A need emerged for a clear legal distinction to be made between these different operations - 'not least in order to provide a foundation for sustainable development and for delivering the EU's Recycling Society', he argues.

In 1999, a BIR-hosted workshop on 'When waste ceases to be waste' proved to be a turning point in promoting the need for more recycling-orientated legislation. Inspired by BIR's President at that time Tony Bird OBE, the event featured contributions from experts within the European Commission, the OECD and the United Nations' Basel Convention Secretariat. 'Recyclers have kept in close touch with those institutions over the last 10 years to encourage the now-achieved legislative changes,' explains Mr Bartley.

Collaborative effort

Mr Bartley continues: 'Change was obtained because of the representations made by recyclers themselves and by their national associations to their own governments, as well as by international federations to the European Parliament and the European Commission. The revision of the Waste Framework Directive is therefore a collaborative effort and a good compromise that should now be supported fully by all across the EU.'

He adds: 'Many stakeholders wanted much more detail included in each part of the directive, but this was impractical for the Parliament. Therefore, much of the follow-up detail has been left to committees to decide. This so-called comitology process is practical despite being less obviously democratic.'

In the final reckoning, says Mr Bartley, the key to an EU-wide Recycling Society is how evenly each Member State transposes and implements both this framework and its related, daughter directives. He states: 'Because of the poor history of EU legislative implementation and enforcement across the EU, there is concern that Member State priorities and emphasis on this revised Waste Framework Directive will differ too much.' □



End-of-waste: sorted and or processed copper scrap for classification as product