



Fédération Européenne des Activités de la Dépollution et de l'Environnement
European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

8th April 2011

FEAD input to the Final Assessment of the 6th Environment Action Programme

FEAD welcomes the work of the European Commission regarding the assessment of the 6th EAP. Our members are grateful for the opportunity to present our observations. We would like to divide our comments in the following way:

1. Priorities and Targets
2. Policy Instruments
3. Better Regulation and Policy-making process
4. Integration of environmental concerns into other policy areas (and vice-versa)
5. Creating a Global Level Playing Field and the International Dimension
6. Implementation and Enforcement in the Internal Market
7. Reorientation of Structural Funds towards Public-Private Partnerships (PPP)

1. Priorities and Targets

- Homogeneous transposition, enforcement and implementation of existing legislation

FEAD members noticed that there is still a huge disparity between Member States in the enforcement of EU waste legislation. This bears the risk of environmental dumping and the improper implementation of the Landfill Directive. We reason that there is huge potential for improving both the common understanding of policies and the cooperation among the authorities of the different countries and regions in the future.

The five-stage waste hierarchy set out in the Waste Framework Directive lays the foundation for a European recycling society. Further progress towards a resource-efficient economy and a recycling society can only be made if the right economic and regulatory framework conditions are in place. FEAD calls upon the EC to live up to its role as guardian of the treaties and to work towards uniform implementation of the existing European waste legislation in the Member States.

- Illegal Shipments

Greater focus is needed on the illegal shipment of waste under the label of “re-use”. Very often this waste is shipped to third-countries where the waste is dumped or not treated in conformity with European waste legislation.

European waste management companies have invested in human resources and infrastructure to treat waste in accordance with strict European regulations. Bypassing these high treatment standards through the unlawful shipment and dumping of waste must be prevented.

FEAD is of the opinion that the main action to combat illegal shipments, in particular the illegal shipment of End-of-Life Vehicles and WEEE, is to ensure consistent inspection and control procedures (eg. by increasing the number of inspectors and inspections of potentially unlawful shipments). This is a key element, necessary to guarantee the proper application of the Waste Shipments Regulation. In this regard, FEAD supports the increased activities of IMPEL (European Union Network for the Implementation and Enforcement of Environmental Law) to ensure that sufficient resources are allocated to enforce the Waste Shipments Regulation.

APOH, Slovakia
ARS, Romania
ASEGRE, Spain
BDE, Germany
CAOH, Czech Republic

DWMA, Netherlands
ESA, UK
EWMA, Estonia
FEBEM-FEGE, Belgium
FISE, Italy

FLEA, Luxembourg
FNADE, France
IWMA, Ireland
KSZGYSZ, Hungary
LASUA, Latvia

NORSK INDUSTRY, Norway
PASEPPE, Greece
PIGO, Poland
SRI, Sweden
VÖEB, Austria
YYL, Finland

2. Policy Instruments

Throughout the 6th EAP, it became noticeable that the main policy instruments of the 6th EAP have focused on end-of-pipe solutions, primarily on the waste management end of the value chain. Policy instruments designed to close the economic/waste cycle still have to be further developed based on the principles of resource efficiency as stated in the 6th EAP, the SCP Action Plan and in the Thematic Strategies on Waste Prevention and Recycling and on the Sustainable Use of Natural Resources.

Existing legislative instruments provide a good basis. However, improvements are needed in order to achieve an enhanced focus. For example, there are as yet no targets in place relating to resource efficiency.

There is a role for fiscal instruments so long as they are created in such a way as to promote the use of secondary raw materials in preference to primary. The European Commission should also consider requesting the Member States to introduce reduced VATs for recyclates. Furthermore, the potential benefits of introducing minimum levels of secondary raw materials in products should be assessed with an approach that allows the different categories of waste stream/raw material/industrial products to be distinguished. In addition, an extension of the scope of the 'Ecodesign Directive' to all products rather than solely to those that are energy-related should be envisaged. We trust that the Resource Efficiency Roadmap to be presented by the European Commission in June 2011 will present a holistic approach to waste and resource management.

3. Better Regulation and Policy-Making Process

- Comitology

To simplify the implementation of existing legislation, FEAD welcomes the process whereby, in specific cases, technical adaptations are made through the Committee procedure. However, we would like to stress that technical adaptations are complex. Overall, they should lead to a better quality of the existing legislation. We therefore deem it necessary to ensure transparency and industry involvement in this process.

- Revision process of existing legislation

The revision of existing legislation should not take place before the legislation reaches its implementation deadline, as it has done in the past (e.g. IPPC Directive and new Industrial Emissions Directive)

- Stakeholder consultations

Deadlines for the submission of responses are often too soon in time after the launch. This may be detrimental to the quality of the consultation process. Moreover the European Commission ultimately does not always appear to pay sufficient attention to the responses which may express a strong and reasoned opposition to the proposed alternatives.

- Impact assessments

It would appear to FEAD that the results of impact assessments are not always taken into account when a political decision on the societal and environmental disadvantages of a piece of legislation is made.

4. Integration of environmental concerns into other policy areas (and vice-versa)

European waste management legislation is determined by interlinks with other EU environmental and energy legislation (e.g. REACH, Directive on the promotion of the use of energy from renewable sources etc.). However, it must be stressed in that regard that the waste management sector bears specificities that may bring about difficulties when trying to apply legislation to activities that were originally designed to cover other sectors.

One such example is the application of REACH to the recycling industry. Article 6 of the revised Waste Framework Directive (2008/98/EC) introduced provisions to determine the exact point at which waste ceases to be waste. As part of the implementation of the revised Waste Framework Directive, the European Commission is currently elaborating criteria on end-of-waste (EOW). Determining when waste ceases to be waste could significantly impact the REACH obligations which recyclers and/or customers have to comply with.

According to Art 2.2 of the REACH regulation, waste is exempt from REACH. However, once waste has reached the end-of-waste status and has become a product, it will have to be compliant with product legislation, i.e. REACH. Notwithstanding the absence of EU-wide criteria for end-of-waste streams, REACH will presumably be applied in a different manner across the EU for certain recovered substances, depending on the interpretation of the EOW status by different Member States.

FEAD members therefore call on the Commission to ensure better interlinks between waste and other EU environmental legislation.

5. Creating a Global Level Playing Field: The International Dimension

Waste is a commodity that is not only traded and shipped across Europe but also internationally. Given that, the Commission should promote the European model comprising high environmental and social standards with a view to defending the competitiveness of EU companies. Regulatory systems at the global level should be harmonised where possible, which means that the EU level of standards should be applied at international level in the future. In the long term this will give a competitive advantage to European industries.

6. Implementation and Enforcement in the Internal Market

Private businesses deal with the waste of 60% of households and 75% of businesses, either as subcontractors of public waste management authorities or through direct contracts with waste owners. This shows that there is a market and competition for waste management. This applies in particular to separately collected, recoverable waste which, according to the Waste Framework Directive, is not part of the package of tasks entrusted to the Member States. Recovery of secondary raw materials from waste is increasingly pushing disposal into the background. Environment-friendly treatment methods and extensive restrictions on landfill of waste have virtually eliminated the potential dangers of waste management for man and environment. Waste management is consequently not merely a service of general economic interest but is, in fact, above all a business sector: as such, the fundamental European freedoms should apply without exception, principally the free movement of goods and freedom to provide services, within a free market with fair competition. Innovation and progress can only flourish where competition creates incentives for industries to develop further. This is impeded by preferential treatment and subsidisation of publicly-controlled market participants, preventing high quality and more cost-effective suppliers from successfully operating. As a result, there is no incentive for innovation and investment. FEAD therefore expressly calls for a level playing field for private and public waste management undertakings and facilities in the market. This includes, in particular fair public procurement legislation without loopholes and

without privileges for cooperative ventures between public authorities, equal VAT treatment between public and private enterprises, and the consistent application of competition rules.

7. Reorientation of Structural Funds towards Public-Private Partnerships (PPP)

In order to realise the goal of a resource-efficient Europe as announced recently by the European Commission, a restructuring of European structural funds is essential. For that reason, FEAD welcomes the approach of the Commission whereby cohesion policy will in future be aligned more strongly to the objectives of the Europe 2020 strategy and waste projects will take account of the five-stage waste hierarchy. In other words preference will be given to the recycling and recovery of materials from waste over landfill and the incineration of waste. However, this can only occur if projects are made accessible to market players who can provide private capital and know-how. FEAD therefore urges policy-makers at European level to improve the framework conditions for alternative financing instruments, in particular for public-private partnerships. In this way, cohesion policy can make a contribution to disseminating high quality environmental standards rapidly across the entire Union.

Conclusion

In order to allow the “recycling society” in Europe to realise its full potential, several conditions need to be fulfilled. These conditions concern predominantly the establishment of fair competition rules for all market operators (public and private), the full application of the single market rules with regard to waste for recovery and the harmonised implementation of EU waste legislation across Europe (e.g. Waste Framework Directive, Waste Shipments Regulation, Landfill Directive).

FEAD is the European Federation representing the European waste management industry. FEAD's members are national waste management associations covering 20 Member States and Norway. They have an approximate 60% share in the household waste market and handle more than 75% of industrial and commercial waste in Europe. Their combined annual turnover is approximately € 75 billion.

FEAD represents about 3000 companies with activities in all forms of waste management. These companies employ over 320000 people who operate around 2400 recycling and sorting centres, 1100 composting sites, 260 waste-to-energy plants and 900 controlled landfills. They play an important role in the determination of the best environmental option for waste management problems.