

March 4th 2008

Response to Caroline Jackson MEP's report on the revision of the Waste Framework Directive (2nd reading).

AmCham EU released on December 19th 2007 its position on the revision of the Waste Framework Directive. This document contains AmCham EU's position on the report presented by MEP Jackson for the second reading vote.

I. Product Eco-design Policy

AmCham EU believes that it is unnecessary for the Waste Framework Directive to establish an eco-design policy or set eco-design requirements.

In the rapporteur's Amendment 18 she proposes a new Article 7a on the prevention of waste, which in subparagraph (b) proposes that the European Commission should formulate a product eco-design policy by 2010. A policy on eco-design has already been established through Integrated Product Policy.

Eco-design requirements do not belong in a waste directive, as waste is only one aspect of an eco-design life cycle and Directive 2005/32/EC already sets out eco-design requirements for energy-using products (EuP). AmCham EU believes that the Waste Framework Directive should not seek to set eco-design requirements, as these are already being developed through the EuP Directive and other EU legislation and standards, such as Type approval for vehicles.

AmCham EU, therefore, does not support Amendment 18.

II. Extended Producer Responsibility

Article 7 of the Council's Common Position is problematic, it enables individual Member States to take actions to extend producer responsibility, even though AmCham EU feels that Individual Producer Responsibility is an important principle, giving Member States the possibility to establish new national producer responsibility measures at horizontal level by means of the Waste Framework Directive would cause legal uncertainty, free-riding, and problems with the free movement of goods.

AmCham EU is concerned that, under the Council's Common Position, individual Member States would be left to decide, at their own discretion, when, where and how producer responsibility would be applied to specific products or product categories. Such lack of harmonization across the EU on producer responsibility would lead to uncertainty in the market and create barriers to trade. The principle of producer responsibility is more appropriately applied through EU waste stream specific legislation, such as the WEEE directive, where this is justified due to the nature and the amount of waste and its waste management capacities.

AmCham EU therefore proposes an amendment to delete Article 7 and Recital 25 and replace these by a new Recital in accordance with the former European Parliament's Amendment 8 in first reading:

Individual producer responsibility is a tool that can be used to promote waste prevention, re-use and recycling by ensuring producers take into account the life-cycle impacts, including end-of-life impacts, of their products and develop appropriate design.

III. Waste Hierarchy

AmCham EU strongly believes that waste management options should be chosen because they are the most appropriate and cost-effective solution and supports the need for life-cycle thinking in this respect. However, we feel that a rigid five stage hierarchy, would create unnecessary administrative burden and would halt innovation in waste treatment. It therefore favours the wording of the Council in its Common Position, which calls for the waste hierarchy to be applied as a "guiding principle". The European Parliament on the other hand feels that it should be applied as a "general rule".

AmCham EU, therefore, does not support Amendments 21 and 22

IV. Waste vs. End-of-waste status for specific product groups

In Amendment 12 to the Common Position the European Parliament proposes that "the Commission shall, if appropriate, make proposals for determining whether at least the following waste streams fall under the provisions of this Article (End-of-waste status), and if so what specifications should apply to them: compost, aggregates, paper, glass, metal, end-of-life-tyres, and waste textiles" within 5 years after the entry into force of this Directive.

AmCham EU, therefore, does not support Amendment 12.

Moreover, AmCham EU would like to stress the importance of having a clear impact assessment calling out specific waste streams. To support this, AmCham EU refers to the "Impact assessment guidelines" (SEC(2005) 791) where the European Parliament

and the Council are obliged to carry out a specific exercise of the amendments they propose.

AmCham EU would also like to underline that in this case the principle of “Better regulation” would not be respected. Guidelines (COM (2002) 791) indeed indicate that other options, such as self-regulation, should first be examined before any binding legislation is introduced.

AmCham EU believes that introducing an obligation without prior impact assessment nor further guidance could create new barriers within the internal market, will hinder free trade, distort competition, increase consumer costs or simply prove unworkable in practice. The Waste Framework Directive establishes a general framework for waste management in Europe. It is not the appropriate vehicle for introducing specific obligations with regard to setting up separate national waste collection schemes. This risks creating fragmentation in the internal market, as well as hindering the competitiveness of European industry while not necessarily improving environmental protection.

Finally, as we have seen with WEEE and the Packaging and Packaging Waste Directive, it has been waste stream specific legislation that sets out special requirements for specific waste streams. Following an impact assessment and stakeholder consultation, a decision could then be made about each stream called out in the amendment.

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