

1. INTRODUCTION

The Department of the Environment has published on its website an “International Review of Waste Management Policy”: <http://www.environ.ie/en/>. As is highlighted for several sections of the document below, this document does not reflect EU and National legislation relating to Environmental Protection.

The EU common environmental policy is based on the precautionary and preventive action principles, on the principle that environmental damage should to the extent possible be rectified at source and on the principle that the polluter should pay. However, it is important to realise that EU Environmental Legislation is not based on zero impact but on consideration of the costs, benefits, impacts and alternatives available. An overriding principle of EU Legislation is the Principle of Proportionality, which requires that the extent of the action must be in keeping with the aim pursued. When applying the general principle of proportionality, the European Court of Justice frequently states that the principle requires an act or measure to be “suitable” to achieve the aims pursued, or it rather concludes that a decision is disproportionate because it is “manifestly inappropriate in terms of the objective which the competent institution is seeking to pursue”.

Indeed the Treaty of Lisbon establishes that Environment is a shared competency between the Union and the Member States, while Article 5 of the Common Provisions requires that the institutions of the Union shall apply the principle of proportionality as laid down on the application of the principles of subsidiarity and proportionality. The Protocol on the Principles of Subsidiarity and Proportionality is clear in that draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved. Furthermore each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 5 of the Treaty on the European Union.

2. INTERNATIONAL REVIEW OF WASTE MANAGEMENT POLICY

2.1 General

There are major deviations from EU Legislation, in particular the Principle of Proportionality, as the document reflects an anti-incineration ideology rather than a proper review of EU and National Legislation and its proper application.

The European Union's approach to waste management is based on three principles:

Waste prevention: This is a key factor in any waste management strategy. If we can reduce the amount of waste generated in the first place and reduce its hazardousness by reducing the presence of dangerous substances in products, then disposing of it will automatically become simpler. Waste prevention is closely linked with improving manufacturing methods and influencing consumers to demand greener products and less packaging.

Recycling and reuse: If waste cannot be prevented, as many of the materials as possible should be recovered, preferably by recycling. The European Commission has defined several specific 'waste streams' for priority attention, the aim being to reduce their overall environmental impact. This includes packaging waste, end-of-life vehicles, batteries, electrical and electronic waste. EU directives now require Member States to introduce legislation on waste collection, reuse, recycling and disposal of these waste streams. Several EU countries are already managing to recycle over 50% of packaging waste.

Improving final disposal and monitoring: Where possible, waste that cannot be recycled or reused should be safely incinerated, with landfill only used as a last resort. Both these methods need close monitoring because of their potential for causing severe environmental damage. The EU has approved a directive setting strict guidelines for landfill management. It bans certain types of waste, such as used tyres, and sets targets for reducing quantities of biodegradable rubbish. Another directive lays down tough limits on emission levels from incinerators. The Union also wants to reduce emissions of dioxins and acid gases such as nitrogen oxides (NO_x), sulphur dioxides (SO₂), and hydrogen chlorides (HCL), which can be harmful to human health.

The Thematic Strategy on the prevention and recycling of waste, which is part of the current 6th Environmental Action Programme, does not abolish the waste hierarchy. However, as knowledge about waste increase, more life cycle analyses and other types of research are available to assess policy options. For example if it is clear that it is more environmentally efficient to incinerate a material to recover energy than it is to recycle it, then that is the option that should be taken. To give one example, the Thematic Strategy Impact Assessment concludes that whereas, if plastic waste is clean and separated, it is best to recycle, when plastic waste is mixed it is more efficient to incinerate it to recover the energy. If the difference in environmental impact between the two options is negligible, then in principle the market should be allowed to find the balance between the two options.

2.2 Irish Programme for Government and Landfill Directive

Page 12 of 88 of the International Review of Waste Management Policy

Box 1: Extract from the Programme for Government

Waste Management

This Government is strongly committed to a waste management hierarchy based on the cornerstones of reduction, re-use, recycling and marketing of recycled products.

We are also committed to meeting the targets to divert biodegradable waste from landfill required under the 1999 EU Landfill Directive. To achieve this, we are committed to the introduction of Mechanical Biological Treatment (MBT) facilities as one of a range of technologies.

We will ensure the highest operating standards for all waste management technologies based on best international practice. We will also ensure that all waste facilities have good transport links and where feasible are close to the national road or rail networks.

We will undertake an immediate international review of waste management plans, practices and procedures and act on its conclusions.

In the meantime, in order to reach our targets under EU legislation :

- We will ensure that for any future projects neither the State nor local authorities will be exposed to financial risk to 'put or pay' clauses in waste facilities.
- We will not alter the landfill levy in such a way as to give a competitive advantage to incineration.

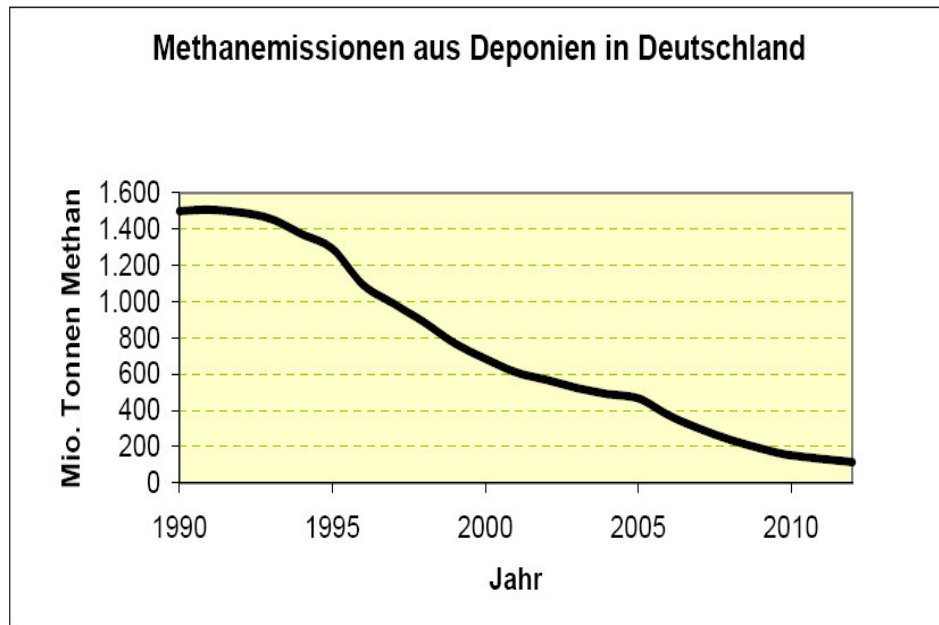
In particular the Government will:

- Establish new ambitious waste management targets for maximum prevention, re-use, recycling and modern waste treatment to ensure that we match the best performance in the EU for recycling with the objective that only 10% of waste or less is consigned to landfill (down from 66% now).
- Ensure that the landfills currently provided for under regional waste management plans should be the last to be constructed for a generation.
- Drive down the cost of waste management charges to householders and business by ensuring that our waste management system is competitive and uses all available technologies to achieve this including the use of waste for generating sustainable electricity.
- Ensure the implementation of the National Strategy on Biodegradable Waste which aims to divert 80% of biodegradable waste from landfill through segregated collection of biodegradable waste, and the generation of compost.
- Establish community monitoring arrangements of major waste management facilities, including on-line monitoring where appropriate, with specific powers/rights to information.
- Expand the network of bottle banks, recycling centres and segregated collection and introduce household hazardous waste collection (e.g. paint cans etc) in all suitable recycling centres.
- Ensure flat rates on waste disposal will be abolished and a mandatory system of weight-related charges for waste collection introduced.

It is clear that the Principle of Proportionality is addressed in that:

“Drive down the cost of waste management charges to householders and business by ensuring that our waste management system is competitive and uses all available technologies to achieve this including the use of waste for generating sustainable electricity”.

The last sentence is extremely important when one considers that 2.5% of greenhouse gas emissions in Ireland are attributed to waste. This is related to the rotting of material in landfills, which produces methane, a gas that is twenty one times more global warming than carbon dioxide.



Quelle: Umweltbundesamt

Reduction in methane emissions from German landfills in million tonnes for period 1990 to 2010

The German TAsi regulations of 1993 implemented the phase out of landfilling of municipal by June 2005. As less biodegradable waste was sent to landfill due to the resultant diversion to municipal incineration, the methane production in the existing landfills slowed as the material was biodegraded and no new material was added.

90% of Germany's landfill emissions have already been reduced and furthermore the heat and power output of 77 municipal incinerators in Germany is equivalent to an additional annual reduction of almost 4 million tonnes of CO₂ equivalent, equal to the emissions of about 1.6 million cars. This comes from the fact that 50% of municipal waste is of biological origin and the combustion of this in a municipal incineration plant can be seen as climate neutral, i.e. renewable. From a financial perspective the heat and power output of the German incinerators is also of significance, being sufficient to provide the energy needs of a large city such as Berlin. German recycling rates at 62% are the second highest in the EU, only Austria at 64% reporting higher values.

The diversion of waste from landfills is therefore a key component of EU Environmental Policy, not only from the perspectives of global warming but also as it reduces land and water pollution. Directive 99/31/EC, the Landfill Directive, requires a staged implementation of a 35% reduction in biodegradable fraction going to landfill by 2016, but falls far short of the total phase out of landfill that Germany achieved in 2005 and Switzerland in 2000. The Irish State will fail by a large extent to meet the targets set for January 2010 in this Directive as there is a 100% reliance on Landfill for disposal in this State at the moment.

Regional Waste Management Plans were prepared by technical consultants in Ireland in the early 2000s. These looked at the tonnages of waste that needed to be collected and recycled / disposed in order to meet the requirements of the Landfill Directive. However, the local authorities, with the exception of Dublin City Council and Meath Co. Council, failed to provide for the development of these facilities or the zoning of land for their development. When private companies prepared proposals to meet these targets they were subject to tremendous abuse and obstruction. Increasingly An Bord Pleanála turned down proposals on grounds that were increasingly flimsy and in which it deliberately stepped outside its area of competency, refusing to acknowledge the scientific experts in the relevant competent agencies. At no stage did it offer any alternative proposals on how the mandatory targets were to be met. The current report on the International Review of Waste Management Practices is a clear attempt to alter these Regional Waste Management Plans.

2.3 Residual Waste Levy

Recommendation 8 (page 57 of 88) of the International Review of Waste Management Practices proposes a levy on incineration based on the following financial charges:

Table 6-2: Proposed Structure for a Residual Waste Levy

	Proposed levy rates, 2010 2011 2012
Landfill (residual MSW not meeting the stability threshold under the EPA Pre-treatment Guidelines)	€40/t €60/t €85/t
Incineration / Advanced Thermal Treatment	€10 /t €20 /t €26 /t plus non-GHG pollutant related taxes (per kg of pollutant, all years) NH ₃ € 9.15 VOCs € 2.50 PM _{2.5} € 52.00 SO _x € 17.30 NO _x € 13.60 Cd € 26.00 Cr € 21.00 Hg € 7,400.00 Ni € 2.60 Pb € 740.00 Dioxin €46,000,000.00 As € 99.00
MBT processes	€5/t €12/t €20/t
Landfilling of Stabilised Biowaste, Standard Landfill	€5 /tonne sent to landfill €15 /tonne sent to landfill €25 /tonne sent to landfill
Landfilling of Stabilised Biowaste, Dedicated Cell	€0/ tonne sent to landfill €0/ tonne sent to landfill €5/ tonne sent to landfill
SRF to incineration	As for incineration, but expressed per tonne SRF
SRF to cement kiln	£0

These figures are derived arbitrarily and without respect to the legislative principles in force, in particular the non-GHG (greenhouse gas) pollutant related taxes. The current EU 6th Action Plan on the Environment is clear in that it requires “*those who cause injury to human health or cause damage to the environment are held responsible for their actions*”. In other words these external costs need to be internalised to lead to more sustainable practices in energy, transportation, agriculture, etc.

The Thematic Strategy on Air forms part of the 6th Environment Action Programme and its function is to present a coherent and integrated policy on air pollution which:

- Sets out priorities for future action;
- Reviewed existing ambient air quality legislation and the National Emissions Ceiling Directive, which places a cap on each Member State’s emissions, with a view to reaching long-term environmental objectives; and
- Develops better systems for gathering information, modelling and forecasting air pollution.

Under the Clean Air for Europe (CAFE) research programme was set up to develop, collect and validate scientific information about air pollution with the aim of reviewing current policies and assessing towards long-term objectives. The CAFE programme lead to the Thematic Strategy on Air and the following costs in € per tonne were established for damages from air pollutants:

NOx	SO₂	PM_{2.5}	VOC	NH₃
4,200 - 11,000	5,400 - 16,000	25,000 - 72,000	920 - 2,700	10,000 - 30,000

To help decide on the costs and benefits of different levels of action, various options were considered with reference to a scenario whereby all possible emissions abatement measures are deployed irrespective of cost. This is called the “Maximum Technically Feasible Reduction” scenario, but even if the EU undertook all measures available, irrespective of costs, there would still be significant negative impacts on health and the environment.

Various options between the baseline and the Maximum Technically Feasible Reduction scenario were then assessed by the CAFE programme to establish interim environment objectives that deliver progress in a balanced and cost-effective way. These full cost-benefit analyses included an analysis of impacts on competitiveness and employment. For the more ambitious scenarios the costs start to rise rapidly for a more limited gain in environmental benefits. Therefore the chosen level of ambition for the Thematic Strategy represents an optimal balance between economic and environmental goals, contributing to Lisbon and the Community's Sustainable Development Strategy objectives, it is not the goal either to enforce zero emissions or implement the Maximum Technically Feasible Reduction.

It is clear if we consider the non-GHG related taxes for the common air pollutants sulphur dioxide (SO₂) and nitrogen oxides (NO_x), then clearly they exceed the maximum values established under the CAFE programme. Furthermore both sulphur dioxide and nitrogen oxides are to be found with practically all combustion sources, such as heating systems or vehicle exhausts, it does not matter to the individual in terms of impact whether they are derived from waste incineration or the neighbour's fire place. If we consider that the National Ceiling Emission Directive (2001/81/EC) then the target set for 2010 for sulphur dioxide emissions from the Irish State is 42 kilotonnes and for NO_x 65 kilotonnes. If we apply the non-GHG related taxes above to these emissions occurring from all sources then the resulting bill would be €0.73 billion for sulphur dioxide and €0.88 billion. This would be a completely excessive burden for the Irish consumer to carry.

Clearly EU and National Legislation does not require the Irish consumer to carry this financial burden. The principle of proportionality is that zero emissions are not sought for but that emissions are reduced to an optimal balance between economic and environmental goals. Incinerators are regulated by Directive 2000/76/EC which sets stringent emission limit values for a full range of air pollutants. In complying with these values incinerators have already met the balance between economic and environmental goals, as defined by Best Available Techniques (Directive 2008/1/EC on Integrated Pollution Prevention and Control). Additional levies on the remaining emissions as proposed by the International Review on Waste Management are not in compliance with this legislation and the principle of proportionality.

2.4 Ash Residues

Bottom ash from municipal incinerators has been extensively investigated in other Member States, in particular the German LAGA-Mitteilung 19 Merkblatt über die Entsorgung von Abfällen aus Verbrennungsanlagen für Siedlungsabfälle (German Authorities' Standard for the disposal of waste from municipal incinerators). Recommendation 18 (page 67 of 88) is not in compliance with established practice developed by Member States and uses an obscure technical article to justify a hazardous rather than a non-hazardous classification for bottom ash.

2.5 Targets and Levies on Household Waste

Recommendation 4 (page 52 of 88) of the International Review of Waste Management: The Polluter Pays Principle applies in EU legislation but there is no transparent justification of either the targets or the charges proposed in this Recommendation. Experience in other Member States has shown that recycling rates have a finite value as the cost of additional recycling outweighs the environmental and other benefits. These Member States have then provided adequate disposal technologies, such as incineration, which fully comply with legislative requirements. Furthermore composting technologies suffer from the problem that low quality compost is produced, which when land spread leads to contamination and loss in quality of the soil.

2.6 Greenhouse Gas Emissions and Environmental Benefits

Section 8.1 (page 85 of 88) does not state the benefits that could incur with regard to Greenhouse Gases if the Irish State, like the overwhelming majority of Member States that have met and exceeded the targets in the Landfill Directive, implemented incineration (Waste to Energy) as was included in the original Regional Waste Management Plans.