

15 December 2003

Federal Ministry for the Environment,
Nature Conservation and Nuclear Safety

**Comments by the Government
of the
Federal Republic of Germany
on the
Communication from the Commission (COM)
Towards a thematic strategy on the
prevention and recycling of waste**

(Document COM (2003) 301 final)

Introduction

The Federal Government welcomes the communication regarding an EC strategy on the prevention and recycling of waste as an appropriate basis for discussion in the envisaged consultation process.

The Federal Government is hopeful that the Commission – in its execution of a mandate from the 6th Environmental Action Programme – will, within the context of its strategy paper scheduled for 2004, submit a number of proposals which will help to advance waste prevention – both in quantitative terms and via the reduction of the content of hazardous substances – and waste recycling¹, as well as establishing further high recycling standards throughout the EU. The **strategy should aim towards a sustainable** – i.e. ecologically, economically and socially compatible – system of **waste management**.

1. Work parallel to the strategy

The Federal Government is requesting the Commission to push ahead with a number of envisaged statutory provisions and amendments to statutory provisions listed in Article 8, paragraph 2 iv) of the 6th Environmental Action Programme, such as a Biowaste Directive, a Directive on Construction and Demolition Waste, revision of the Sewage Sludge Directive, and clarification of the difference between recovery and disposal by amending Annexes IIA and IIB of the Framework Directive on Waste, parallel to and independently from this strategy. The Federal Government believes that a more precise definition of the legal framework is urgently needed. In particular, the Federal Government is requesting the Commission to submit a proposal on the important **distinction between recovery and disposal** as soon as the on-going study is complete and once the Member States have been consulted.

¹ Since the term "recycling" is not used in German legal terminology, it is important to make clear in the German version of the strategy that recycling refers to material recovery.

As the Commission's Report on the implementation of Community waste legislation (COM(2003)250) highlighted considerable deficits in the **implementation of existing law**, the Federal Government is requesting the Commission to redouble its efforts towards implementation, *inter alia* via more intensive technical cooperation.

2. Need for action in the strategy

Essentially, the Federal Government agrees with the assessment of current EC waste policy and the need for action as outlined in the Communication. The Federal Government additionally recognises a need for greater **harmonisation with the implementation of existing statutory provisions**, including those relating to the End-of-Life Vehicle Directive², the Waste Electrical and Electronic Equipment Directive, the European Waste List (Decision 2000/532 as amended) and certain rulings by the European Court of Justice regarding the distinction between recovery and disposal (including cases C-228/00 and C-458/00).

Furthermore, the Federal Government is calling for more stringent requirements governing the deposit of wastes and the sealing of landfill sites in the Landfill Directive, with due regard for the requirements already existing in Germany (Ordinance on Environmentally Compatible Storage of Waste from Human Settlements and on Biological Waste Treatment Facilities, Landfill Ordinance, Technical Instructions on Waste from Human Settlements).

A differentiation of the need for action (and possible instruments) according to different types of wastes is also deemed necessary.

Finally, the Federal Government suggests that the strategy should include more available data in order to reinforce the need for action.

² Cf. Appendix under III b), no. 1.b), right-hand column, 3rd paragraph

3. Priority points in the strategy

Below, certain points are addressed which the Federal Government feels should be given priority in the strategy. The Federal Government has additionally given its opinion on the individual options outlined in the Commission's communication in the form of a tabular overview (cf. Appendix).

a) Recycling standards

The EC has already set EU-wide standards for the disposal and energy recovery of waste with the Landfill Directive and the Directive on the Incineration of Waste.

Within the context of further developing EU waste policy, the Federal Government is urging for **additional EU-wide standards on waste recovery**, aimed at achieving a harmonisation of requirements at a high standard of environmental protection, as well as avoiding eco-dumping and the distortion of competition. The Federal Government believes that **recycling standards** should constitute a **key component of the strategy**, whereby those waste categories with a minimal or low economic value and the related recovery facilities, including pre-treatment plants, should be addressed first, since the market incentives for material recovery are generally lacking in such cases. By contrast, the Federal Government believes that there is no need for additional standards for wastes which already have functioning markets, such as paper, metal and glass; in such areas, voluntary commitments may be expedient (such as the voluntary commitment on graphic paper in Germany).

Recycling standards could include *inter alia* the following components:

- Requirements pertaining to separation
- Recovery or recycling quotas for waste treatment plants
- Landfill bans
- Limits *inter alia* on the content of hazardous pollutants (such as PCB and heavy metals) in waste destined for material recovery.

These recycling standards should be formulated with due regard *inter alia* for the Waste Wood Ordinance (in force since 1 March 2003), the Commercial Wastes Ordinance (in force since 1 January 2003) and the Underground Waste Stowage

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Ordinance (in force since 30 October 2002); for further information, and to download the texts of the ordinances in English and German, please refer to the website www.bmu.de³. The Waste Wood Ordinance includes requirements pertaining to separation, a ban on the landfilling of waste wood, and limits on the content e.g. of PCB (5 mg/kg) and heavy metals, above which the material recovery of waste wood is prohibited. The Commercial Wastes Ordinance includes requirements pertaining to separation (for municipal wastes of commercial origin, i.e. paper, glass, plastics, metals, certain biowastes and hazardous wastes and for mixtures subjected to pre-treatment on the one hand, and for certain types of construction and demolition waste on the other), and a recovery quota of 85 percent for pre-treatment facilities. The Underground Waste Stowage Ordinance stipulates limits on the content e.g. of PCB (1 mg/kg) and heavy metals, above which the underground stowage of waste is prohibited (although there are exceptions for stowage in salt rock, amongst other things), as well as prioritising the recovery of metals above certain metal content levels.

For the creation of recycling standards, it might be worth considering an **EC Directive** containing general provisions on several different waste categories and facilities and, where applicable, specific provisions for selected waste categories and facilities; detailed provisions on specific topics could be determined via a committee (procedure in accordance with Article 18 of the Framework Directive on Waste). However, the Federal Government does not deem it expedient to specify detailed standards for recovery in Annex IIB of the Framework Directive on Waste, partly because this would overload the said Annex.

In this context, the EC should redouble its efforts towards the further development of **international recovery and disposal standards at UN and OECD level**. In an initial stage, for example, the Technical Guidelines on landfill and waste incineration under the Basel Convention should be revised, with due regard for the EC Landfill and Waste Incineration Directives.

³ cf. www.bmu.de/en/800/js/download/waste/b_wastewood/
www.bmu.de/en/800/js/download/waste/municipal/
www.bmu.de/en/800/js/download/waste/b_underground_waste_stowage/

b) Minimisation of waste for disposal / material and energy recovery

Within the context of a strategy on waste prevention and recycling, the Federal Government is also requesting the Commission to address the **target** outlined in the 6th Environmental Action Programme (Article 8, paragraph 1, points 3 and 4) of **minimising the quantity of waste for disposal**. In particular, the Federal Government believes that **the quantity of waste for deposit on landfill sites should be reduced as far as possible**.

The Federal Government feels that to this end, the **expedient coexistence of material and energy recovery, together with the incineration of wastes for disposal and, where applicable, landfilling**, is needed. In this context, the Federal Government is requesting the Commission to examine in which cases recycling (material recovery), in which cases incineration (energy recovery or incineration of wastes for disposal) and in which cases, as appropriate, landfilling are advantageous from a sustainability viewpoint.

The Federal Government is also requesting the Commission to assess whether the **capacities for energy recovery within the EU** are adequate in order to attain the aforementioned target.

c) Waste prevention

On the subject of waste prevention, the Federal Government welcomes the Commission's willingness to go beyond actual waste policy, and incorporate other areas such as integrated product policy and the sustainable use of natural resources.

The Federal Government is requesting the Commission to draw up proposals aimed at stipulating **waste prevention targets for key products** in the medium to long term (e.g. in the form of standards or statutory provisions). These should also include qualitative prevention (e.g. imposing limits on the content of certain pollutants in products) aimed at preventing the accumulation of pollutants in products due to the use of waste in their production, amongst other things. Key products in this respect include construction materials and organic fertilisers. The same also applies to certain wastes such as fuels derived from waste.

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d) Cost / benefit aspects

The Federal Government welcomes that the Commission has commissioned a study on cost/benefit scenarios for the purpose of deriving recycling targets. Moreover, the Federal Government believes that cost/benefit aspects should be taken into account with all measures. Additional economic aspects such as competition issues, deregulation requirements and aspects of market regulation should also be addressed.

e) Subsidiarity / implementation effort

When formulating its strategy, the Federal Government is requesting the Commission to apply the principle of subsidiarity (amongst other things, the individual instruments should specify which players are affected), and to take into account the effort of implementation in the Member States. Generally speaking, the aim should be to reduce the effort of implementation and the bureaucratic pressure on affected parties.

f) Timetable for instruments

In its strategy, the Federal Government is requesting the Commission to specify timetables within which the Commission feels that the principal instruments and measures could be introduced, as well as stipulating which pre-requisites must be in place prior to introduction, and identifying those instruments where further work is needed following presentation of the strategy. A number of instruments are likely to require intensive checks and preparatory work, without which they could not responsibly be used.

g) Coordination of the strategy with other policies

The Federal Government is requesting the Commission to coordinate its strategy on waste prevention and recycling more effectively in terms of both content and timing, particularly with regard to its work on sustainable development, sustainable use of natural resources, integrated product policy, integrated pollution prevention and control (IPPC Directive), chemicals policy (REACH), soil conservation policy, environmental technology, and climate protection policy.

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h) Coordination of the strategy with climate protection policy

The thematic strategy on the prevention and recycling of waste should also be more closely coordinated with climate protection policy. Amongst other things, the potential for reducing greenhouse gas emissions in the waste sector should be examined in greater detail (including an analysis of which wastes are better suited to material recovery and which are better suited to energy recovery, with due regard for the entire lifecycle). Through waste prevention, i.e. economical and environmentally-conscious handling of resources, environmentally sound deposit, efficient recovery (closed-substance cycle for raw materials) and incineration of wastes, coupled with the avoidance of greenhouse gas emissions in raw materials production through increased waste recovery, waste management can make an important contribution to climate protection. In particular, emissions of the greenhouse gases CO₂ and CH₄ can be reduced in this way.

4. Next steps

The Federal Government would welcome an exchange of opinions in the Council between the Member States and the Commission regarding the strategy. The Federal Government also welcomes the Commission's intention to submit its strategy proposal by September 2004. The Federal Government firmly believes that this proposal should subsequently be adopted in a co-decision procedure by the Council and the European Parliament.

Comments of the Federal Government on the options presented in the Commission's (COM) communication “Towards a thematic strategy on the prevention and recycling of waste”

I. Assessment of the EU’s existing waste policy: Need for action and problems (Section 3)

COM communication	Comments
1. Implementation of existing EU waste law (section 3.2.1)	This is felt to be important. Against the background of the Commission’s report on the implementation of Community waste legislation (COM(2003)250), the Federal Government is requesting the Commission redouble its efforts towards the implementation of existing EU waste legislation.
2. Placing waste prevention objectives on a solid scientific foundation (failure to meet a target in the 5 th Environmental Action Programme (EAP) of 300 kg per capita of municipal waste, since the current level is around 550 kg per capita) (section 3.2.2)	A solid scientific foundation is important; however, the procurement of additional data above and beyond the existing provisions is not considered necessary. Note: The quantity of municipal solid waste in Germany was relatively constant between 1996 and 2000 (approximately 550 kg per capita).
3. Extending EU legislation to include new regulations that are material-specific (e.g. paper, plastics) and do not govern end-of-life products (section 3.2.3)	Needs to be investigated (cf. under II, no. 3, right-hand column, 1 st paragraph).
4. Setting of targets for recycling (section 3.2.3)	Supported; consideration should also be given to the utilisation period, amongst other things (cf. also under II, no. 3, right-hand column).
5. Recycling is often more expensive than landfill and incineration; one important goal should be to change this situation (section 3.2.3)	Supported in principle; a precise analysis of the prices and ecological benefits of the different operations is needed.
6. A suitable mix of instruments is needed (new legal provisions, voluntary agreements and economic instruments; COM regards the latter as particularly important) (section 3.2.3)	Supported; a focus on economic instruments would be desirable; however, consideration should also be given to the political framework conditions, <i>inter alia</i> the different starting positions in the various Member States.
7. Establishing standards for recycling operations that are harmonised across the EU, since such standards are largely lacking (problem of “eco-dumping”) (section 3.2.4).	Should be a central component of the strategy (cf. under III c), no. 1.b), right-hand column).
8. Differentiation between recovery and disposal (section 3.2.4)	COM proposal is urgently needed (cf. under III d), no. 1.a), right-hand column).
9. Differentiation between waste and non-waste (chapter 3.2.5)	Supported (cf. under III d), no. 1.c), right-hand column) but not considered a priority.

II. Definition of targets (section 4)

COM communication	Comments
<p>1. COM has commissioned a study into cost/benefit scenarios for recycling with a view to deriving recycling targets from it. The initial results of this study should be available in late 2003 (section 4.1)</p>	<p>The commissioning of a study is welcomed.</p>
<p>2. COM currently feels that it is not possible to propose quantitative waste prevention targets (<i>inter alia</i> due to lack of statistical data) (section 4.2) COM anticipates that it will be possible in 2008 to assess trends (because data for 2004 and 2006 will then be available on the basis of the EU Statistics Regulation). COM therefore wishes to debate</p> <ul style="list-style-type: none"> - the relationship between waste prevention, integrated product policy (see COM communication of 18 June 2003) and the sustainable use of natural resources (see COM communication of 1 October 2003) and - whether targets for waste prevention are actually justified. 	<p>This view is shared;</p> <p>COM's expectations regarding the availability of meaningful data are considered rather too optimistic; established trends are likely to become available in 2010.</p> <p>This is welcomed; eco-design is particularly important; cf. COM proposal for the Energy-Using Products (EUP) Directive (document COM(2003)453 final);</p> <p>The establishment of waste prevention targets at Community level as indicative targets (political targets) is supported in principle (cf. Article 8, paragraph 2, point ii, letter a of the 6th EAP); however, suitable mechanisms for their implementation and indicators for control purposes are considered important.</p>
<p>3. COM feels that the existing waste stream-oriented approach (i.e. recycling quotas for certain end-of-life products) and the material-specific approach could be combined with respect to recycling targets (section 4.3)</p> <p>COM is also considering whether EU-wide overall targets should be defined in the future, rather than targets for individual Member States. According to the COM, this would require a more market-oriented legal framework and greater harmonisation of the standards for recycling facilities, however.</p> <p>COM also feels that indicative targets, e.g. for construction and demolition wastes and for solid municipal wastes, are possible in addition to mandatory targets.</p>	<p>An investigation into the possibility of combining the approaches cited is supported in principle. It is also necessary to investigate whether product responsibility can be adequately implemented in this way.</p> <p>Initially, efforts should focus on the greater harmonisation of standards / requirements for recycling facilities and the creation of a more market-oriented legal framework. This process will take several years; until then, the Federal Government rejects a discussion of EU-wide overall targets. Although EU-wide overall targets may lead to waste recovery improvements in selected Member States, they could quite have the opposite effect in others, contrary to the target of harmonisation. Furthermore, this could also lead to competitive distortions for the disposal industry.</p> <p>Indicative targets (political targets) for certain wastes are supported in principle. However, these should not result in the establishment of new complex monitoring systems in the Member States.</p>

III. Building blocks of a thematic strategy (section 5)

COM communication	Comments
1. COM makes it clear that it has not yet defined how the various instruments (new legal provisions, voluntary agreements and economic instruments) should be used and combined (section 5.1). COM also clearly states that, if economic incentives cannot be created, additional statutory provisions will have to be considered, and that a limited number of legal initiatives may be necessary (section 5.6).	
2. COM also mentions that it could draw up, in the course of the consultation process, a provisional list of criteria for selecting waste streams for which additional action will be required (section 5.6).	The Federal Government is requesting the COM to submit such a list of criteria in the near future, together with its initial ideas on the selection of concrete waste streams.

III a) Instruments to promote waste prevention (section 5.2)

COM communication	Comments
<p>1. With respect to quantitative prevention (reduction in quantity), COM also feels that production and consumption patterns will have to be changed. It therefore wishes to go beyond the actual waste policy and include areas such as integrated product policy and resource management (section 5.2.1). Possible instruments:</p>	<p>Supported in principle; cf. also the comments on page 6 in section 3.c).</p> <p>The Federal Government is requesting the COM to consider ways of reusing and extending the life of products (including via repairs) in its strategies; programmes to this effect already exist in the cities of Munich and Vienna, for example.</p> <p>In this context, the Federal Government is also requesting the COM to review standards and legal provisions respectively with a view to eliminating unjustified restrictions on the use of waste in product manufacturing.</p>
<p>- a) Economic instruments (no examples given),</p>	<p>The Federal Government is requesting the COM to investigate which instruments might be suitable.</p> <p>In this connection, the Federal Government is requesting the COM to consider appropriate consumer-friendly product information and labelling provisions.</p>
<p>- b) Information campaigns and</p>	<p>National, regional and local government campaigns are supported in particular.</p>
<p>- c) More “green” public procurement, and</p>	<p>Supported in principle, provided cost-efficiency is preserved, cf. the draft of an EU Directive on the award of public supply contracts, public service and public works contracts (document COM(2002)236) and the Common Position of the Council dated 20 March 2003. Information on the more effective use of public procurement potential is felt to be important.</p>
<p>- d) An exchange of information about national measures taken in these areas</p>	<p>Supported. “Best practice” examples should be exchanged, amongst other things.</p>
<p>2. With respect to qualitative prevention (reduction of the content of hazardous substances), the COM feels that the following are necessary (section 5.2.2):</p>	<p>Cf. also the comments on page 6 in section 3.c).</p>

<p>- a) The future chemicals policy (known as the REACH system) and</p>	<p>It is necessary to investigate whether or not the REACH system (cf. COM proposal (COM(2003)644 of 29 October 2003) is suitable for use in the waste sector. Additionally, measures within the context of the integrated product policy should be examined so as to prevent the accumulation of pollutants in products due to the use of waste in their production, amongst other things.</p>
<p>- b) If necessary, additional restrictions on certain substances in the waste laws until they are covered by the REACH system.</p>	<p>Restrictions are needed on the material recovery of wastes containing hazardous pollutants such as dioxins and PCB above certain limits (cf. letter from Minister Trittin to the COM dated March 2003).</p>
<p>3. Further possible measures (section 5.2.3):</p>	
<p>- a) Waste prevention plans (e.g. at local, national and European levels or for companies or economic sectors) (section 5.2.3.1) and</p>	<p>This is considered unsuitable as a statutory provision and is therefore rejected (no control of production). Instead, waste prevention plans on a voluntary basis are considered suitable, since targeted analyses of various plant types or industries may identify waste prevention potential. Programmes to this effect have been carried out in Germany e.g. at local authority and <i>Länder</i> level. The exchange of information about such plans at EU level is considered expedient.</p> <p>In this context, the Federal Government refers to the requirement in Article 19 of the Closed Substance Cycle and Waste Management Act, which stipulates that waste management concepts are to be prepared for certain wastes from a specified quantity.</p>
<p>- b) Incorporation of waste prevention into BAT reference documents (BREF documents) as described in the IPPC Directive (section 5.2.3.2)</p>	<p>Supported; priority should be given to sectors with major environmental impacts. In this connection, the Federal Government refers to the requirement outlined in Article 5, paragraph (1), no. 3 of the Federal Immission Control Act, which stipulates that installations subject to licensing are to be operated in such a way that waste is avoided, unavoidable waste is recovered, and unrecoverable waste is disposed of without detriment to public welfare. Sample administrative provisions have been developed for the implementation of this requirement.</p>

III b) Instruments to promote waste recycling (section 5.3)

COM communication	Comments
<p>1. Given the cost disadvantages of many recycling operations compared to disposal, COM feels that economic and market-oriented instruments are very promising (section 5.3). These include:</p>	<p>Supported in principle; however, consideration should be given to the political framework conditions.</p>
<p>- a) Landfill taxes, which already exist in some Member States, are regarded as politically sensitive by the COM. COM would prefer greater coordination between the Member States, but does not totally exclude the possibility of harmonised landfill taxes at EU level (section 5.3.1)</p>	<p>Before the Federal Government can establish its position on this issue, it is requesting the COM to outline the current landfill costs and charges in the various EU Member States, the level of taxation in those countries, and how the funds are spent (on specific purposes or as part of the general budget), and to assess the medium-term development of costs and charges (changes are likely, partly as a result of implementation of the EC Landfill Directive, and in Germany, due to the implementation of the Ordinance on Environmentally Compatible Storage of Waste from Human Settlements and on Biological Waste Treatment Facilities).</p> <p>In addition, the Federal Government is requesting the COM to prepare an overview of other instruments currently existing in the Member States (including provisions under administrative law) with respect to landfilling, to allow the necessity/significance/target attainment of a landfill tax in the overall mix of instruments to be assessed (cf. also under I. no. 6, right-hand column).</p> <p>Possible alternative: More stringent requirements, particularly for deposit and the sealing of landfills at EU level.</p>
<p>- b) With respect to manufacturer's responsibility (= product responsibility), the COM wants to weigh up the pros and cons of existing systems (i.e. to determine whether such systems promote or prevent competition) and to examine whether the existing EU system should be extended and if so, to which waste streams it should be applied (section 5.3.2).</p>	<p>An analysis of the pros and cons of existing systems in the Member States is welcomed. The emphasis should be on an ecological and economic evaluation rather than a comparison of existing systems. When considering competitive aspects, this should not only include competition in the waste management market, but also competition between the manufacturers and distributors of products. It is also necessary to investigate the extent to which EU Directives (such as the Waste Electrical and Electronic Equipment (WEEE) Directive) require the protection of EU cartel law in order to avoid dissonance arising from EU legislation.</p>

<p>With respect to the Packaging Directive (which does not define the manufacturer's responsibility as mandatory), the COM is asking whether a manufacturer's responsibility should be harmonised at EU level (section 5.3.2).</p>	<p>The Federal Government is open to the idea of extending manufacturer responsibility to other wastes; however, it believes that experiences with the transposition of WEEE Directive into national law should be awaited first. The Federal Government furthermore suggests that general requirements on product responsibility should be laid down in EU law, with due regard for Articles 22-26 of the Closed Substance Cycle and Waste Management Act.</p> <p>Regarding the requirements of existing EU Directives (such as the End-of-Life Vehicle Directive), there should be a harmonisation of both quantitative (e.g. recycling quotas) and qualitative (e.g. treatment requirements) standards. The monitoring of such requirements should be harmonised throughout the EU (for example, regarding the quotas in the End-of-Life Vehicle Directive, harmonisation of the recovery factors (material, energy – input/output consideration) is needed for the recovery of shredder light fractions).</p> <p>The inclusion of manufacturer responsibility in the Packaging Directive is considered important; as such, there is a need for harmonisation.</p> <p>The industry's interest in ISO TR 14062 (integration of environmental aspects into product design and development) is welcomed.</p>
<p>- c) COM is asking whether tradable certificates are an acceptable and suitable means for achieving recycling targets (section 5.3.3). Before certificates can be used, COM feels that it is first necessary to clarify how recycling obligations are assigned and how monitoring and performance can be carried out effectively.</p>	<p>The Federal Government believes it would be preferable to wait until this instrument has been implemented in other areas (e.g. climate protection) (experience of certificates in the United Kingdom within the context of implementing the Packaging Directive has not been convincing. Collection and recovery are confined to the regional level ("cherry picking"), whereby the burden for disposal remains with the local authority rather than with the manufacturer/distributor); the relationship with administrative law is also unclear.</p> <p>In the meantime, the Federal Government is requesting the COM to investigate how a system of tradable certificates would be structured in concrete terms, and how monitoring and implementation can be implemented effectively and with a justifiable effort.</p>

<p>- d) COM feels that polluter-specific waste charges (Pay-As-You-Throw - PAYT) are possible to promote separate collection (COM has commissioned a research project into this subject). COM feels that the introduction of PAYT systems at the EU level is possible, but recognises the problem of subsidiarity and understands that it is a politically sensitive issue (section 5.3.4).</p>	<p>In principle, PAYT systems are considered suitable. However, in view of the principle of subsidiarity, these should not be introduced at EU level. The concrete instruments should be left to the discretion of the regional and local authorities. An exchange of information at EU level about experiences with such systems is considered expedient.</p> <p>It should be noted that PAYT may also be expedient for use within companies.</p>
<p>- e) The COM is in favour of an exchange of information on incentives (e.g. promotion of environmental management systems, rewards for consumers by means of “eco-point systems” at the national or subnational level (section 5.3.5).</p>	<p>An exchange of information is supported in principle.</p>
<p>2. Options for legal provisions (section 5.3.6) :</p>	
<p>- a) Landfill bans of certain wastes</p>	<p>Supported in principle for separately collectible and recoverable wastes, such as wood and biowastes; cf. the Technical Instructions on Waste from Human Settlements, the Ordinance on Environmentally Compatible Storage of Waste from Human Settlements and on Biological Waste Treatment Facilities (ban on the dumping of untreated waste from human settlements on landfills from 1 June 2005 at the latest) and the Waste Wood Ordinance (ban on the landfilling of waste wood). Landfill bans for certain wastes only make sense if used in conjunction with systems for other forms of collection of these wastes.</p>
<p>- b) Mandatory separation at source of certain wastes</p>	<p>The Federal Government is in favour of ecologically/economically expedient provisions on separation at source for municipal wastes of commercial origin, and for certain types of construction and demolition waste, with due regard for the Commercial Wastes Ordinance, and for waste wood with due regard for the Waste Wood Ordinance.</p> <p>Furthermore, as a general principle, paper, metals, glass, biowaste, certain types of production waste, certain packaging materials and hazardous wastes should be collected separately from other wastes.</p>

III c) Measures for filling waste recycling standard gaps (section 5.4)

COM communication	Comments
<p>1. COM feels that a limited number of measures are needed at the EU level. Possible measures include (section 5.4):</p>	
<p>- a) Extending the IPPC Directive to the entire waste sector and drawing up further BREF documents, and</p>	<p>Could be suitable in principle; however, before extending the IPPC Directive, the effectiveness of the existing provisions needs to be reviewed first (cf. progress report on the IPPC Directive (COM(2003)354)). In this connection, the Federal Government welcomes the IMPEL project “Waste related conditions in environmental permits”, which aims to investigate the waste-related impacts of the IPPC Directive in practice. However, the current threshold levels of the IPPC Directive (Directive 96/91/EC) should be retained, and the licensing thresholds of the 4th Ordinance to the Federal Immission Control Act (<i>4. BimSchV</i>) should not be undercut.</p> <p>As the formulation of BREF documents is a very time-consuming process and such documents are not mandatory, further EU-wide recycling standards are considered to be more important.</p> <p>In this connection, the Federal Government refers to the requirement outlined in Article 5, paragraph (1), no. 3 of the Federal Immission Control Act, which stipulates that plants subject to licensing are to be operated in such a way that waste is avoided, unavoidable waste is recovered, and unrecoverable waste is disposed of without detriment to public welfare. Sample administrative provisions have been developed for the implementation of this requirement.</p>
<p>- b) Defining standards for recycling, for example by only recognising a method as recovery if a large proportion of the waste is actually recovered.</p>	<p>Cf. the comments on pages 4 and 5 in section 3.a).</p> <p>Recycling standards should constitute a central component of the strategy.</p>

III d) Accompanying measures to promote waste prevention and recycling (section 5.5)

COM communication	Comments
1. Improvement of the legal framework (section 5.5.1), including:	
<p>- a) Defining the differentiation between recovery and disposal; the COM feels that the definition of energy recovery should only be changed by amending the Waste Framework Directive. It is currently examining whether such proposals are necessary, with due regard to the European Court of Justice judgements of February 2003 (section 5.5.1.1).</p>	<p>This is urgently needed. The Federal Government is requesting the COM to submit a proposal as soon as the on-going study is complete and once the Member States have been consulted.</p> <p>Stage 1: Amending Annexes IIA and IIB of the Framework Directive on Waste in accordance with the procedure outlined in Article 18 of this Directive (adaptation committee – TAC). As these Annexes are also valid at OECD (council decision) and UN level (Basel Convention), corresponding EU proposals should be discussed there before they are adopted within the EU.</p> <p>Possible stage 2: Amendment of Annexes IIA and IIB of the Framework Directive on Waste within the context of a co-decision procedure.</p>
<p>- b) Creating guidelines for the application of Article 7, paragraph 4a), point 5 of the EU Waste Shipment Regulation (which the COM feels is sensible) (section 5.5.1.1) and</p>	<p>Supported; a greater exchange of experiences at EU level is considered expedient.</p>
<p>- c) Defining the differentiation between waste and non-waste (the COM is reluctant, but nevertheless prepared to discuss this and mentions, among others, objective criteria for certain particularly important wastes and EU-wide guidelines) (section 5.5.1.2).</p>	<p>Objective criteria for selected key waste types and EU-wide guidelines are supported in principle (cf. also the justification of the Waste Wood Ordinance regarding the end of the waste characteristic), but are not considered a priority. A more widespread exchange of experiences at EU level is considered expedient. In this connection, the Federal Government wishes to point out that slurry, manure, straw and silage cannot always be classified as waste, contrary to the statement on page 65 of the Communication.</p>
2. Further research work within the ongoing programmes (section 5.5.2)	Supported.
3. Demand-side measures (for materials such as cement or furniture for which wastes are recovered during their manufacture); the COM intends to investigate measures to this effect as part of the integrated product policy (section 5.5.3).	Supported. In this connection, the Federal Government is requesting the COM to examine suitable consumer-friendly product information and labelling provisions.
4. Exchange of information on education and training (section 5.5.4)	Supported.