

European Commission  
Environment Directorate-General  
Ms. Marianne Klingbeil  
Head of unit A2 on Production,  
consumption and waste  
Office BU-5 5/67  
B-1049 Brussels

Brussels, 28 November 2003

Re.: **Thematic Strategy on Recycling and Prevention of Waste - COM(2003) 301 final**

Dear Mrs. Klingbeil,

The steel for packaging industry welcomes the debate and the holistic approach proposed by the European Commission in the “Communication towards a Strategy on the Prevention and Recycling of waste”.

Due to the importance of recycling for our industry and its longstanding experience in that area, we are pleased to contribute to the Commission’s stakeholder dialogue.

Our view is that :

- the steel scrap market is a global and well functioning market which does not need excessive legal interference
- a change in the definition of waste is a must for steel in order to further promote its recycling
- it is inappropriate to set mandatory prevention targets either at national or at EU level

As regards packaging recycling,

- a shared producer responsibility approach is recommended
- harmonizing national legislation is key for a successful and sustainable waste management approach in Europe
- recycled content mandatory requirements are not appropriate for steel applications
- sustainable household waste management schemes have to be promoted

You will find in Annex our detailed position on the Thematic Strategy. We hope that you will find it a constructive input for the debate.

Yours sincerely,



Jean-Pierre TAVERNE  
Environmental Affairs Manager



Renaud Batier  
Public Affairs Manager

**Communication from the Commission  
Towards a strategy on the prevention and recycling of waste  
COM(2003) 301 final**

**APEAL Position Statement**

APEAL welcomes the opportunity given by the European Commission to provide input to the Thematic Strategy on the prevention and recycling of waste, which opens the way for a fundamental revision on the current Community approach towards recycling & prevention.

APEAL, the Association of European producers of steel for packaging, represents more than 90% of the total European production of steel for the packaging market. Among its members are: Arcelor Packaging International, Corus Packaging Plus and Rasselstein Hoesch, which represent a direct and indirect employment of 13,000 people in 7 countries and a consolidated turnover of around €3 billion.

**I. Why is the Thematic Strategy on Prevention & Recycling a key issue for steel manufacturers?**

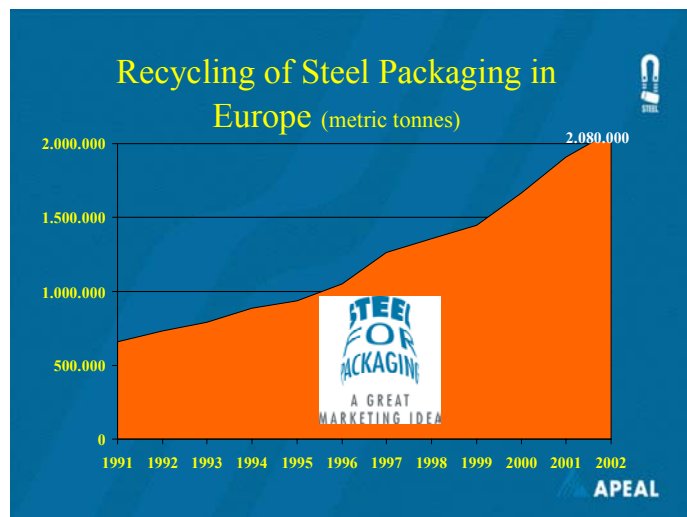
The production of crude steel in the EU in 2002 represented a volume of 158 million tonnes, of which 4 million tonnes was for the packaging market. Steel production relies heavily on recycling with an estimated 88 million tonnes of secondary raw material being annually recycled in the EU: in so doing, raw materials and energy are conserved for future generations. Every tonne of recycled steel scrap saves 1.5 tonnes of iron ore, 0.7 tonne of coal and 0.2 tonne of limestone and up to 65% of energy.

The ability of steel to be recycled indefinitely without any downgrading of its quality and the flexibility to recycle steel scrap into a host of new steel applications is unique. Recycled steel is an essential ingredient in the production of new steel. Steel scrap is a valuable product whether coming from the production process, whether originating from post-consumer scrap.

**The current state of steel packaging recycling in the European Union**

**A three-fold increase in recycling within 10 years**

Steel packaging is being recycled in ever increasing volumes: over the last 15 years, the recycling of steel packaging has increased more than three-fold from 463 thousand tonnes in 1986 to nearly 2.1 million tonnes in 2002. More recently, between 2001 and 2002, there was an 8% growth in collected and recycled tonnage of steel packaging in Europe, and meant that the European recycling rate reached 60% in 2002.



The steel industry has now reached its voluntary objective of 60% recycling for steel packaging that it had set itself for 2005. Therefore, in terms of meeting the legal requirements, steel contributes significantly to reaching the EU recycling target for metal packaging (steel and aluminium), which the Packaging Directive has set at 50% by the year 2008.

Steel is the most recycled packaging material in Europe, followed by glass (59%) and paper-board (52.4%).

**Development of steel packaging recycling systems in Europe – an historical perspective**

In the European Union, the organised reclamation of used steel packaging from households and the collection of industrial steel packaging applications (steel drums, steel strapping, transit packaging) has a long tradition in Europe. Historically, the collection and recycling of used steel packaging from households was first developed in northern European countries with a strong steel industry presence, mainly in France, United Kingdom, Germany, the Netherlands and Belgium. At that time, the collection infrastructure mainly consisted of magnetic extraction directly from collected domestic waste and this is still the most appropriate way to collect steel packaging in high population density urban areas and the one which contributes the most in volume to the recycling of used steel packaging.

This has been complemented in most countries by voluntary take back to container parks, drop-off centres and magnetic extraction of steel packaging in various newly-built waste treatment plants.

This was followed by the development of multi-material kerbside collection schemes which now operate in most EU countries.

**APEAL favours sustainable household waste management schemes**

The magnetic separation of steel packaging allows the extraction and sorting of all types of steel packaging applications (beverage cans, food cans, aerosols, ...), together, from other packaging materials without segregation and in a cost-efficient way. Therefore we do not see the appropriateness of setting up collection schemes for specific packaging segments.

The sustainability of recycling systems depends upon integrated waste management systems where economies of scale mean that materials are collected in an efficient way. Conversely, creating specific recycling schemes for specific packaging segments is to move in the wrong direction. The recent problematic deposit system specifically for drinks containers in Germany is an example of an approach which we believe would not be sustainable, economically or environmentally.

**National differences in recycling performances mirror different local conditions**

There are vast disparities of recycling achievements for steel packaging across the EU, with national rates ranging from 28 per cent (Portugal) to 93 per cent (Belgium). This largely reflects the extent to which Member States already have integrated waste management systems, or whether municipal solid waste in those states goes mainly to landfill. Nevertheless, steel recycling is growing in every Member State, and the recycling rates are given below :



Factors contributing to those national variations are essentially :

- the availability of collection infrastructure for recyclable household waste,
- the availability of waste treatment plants where magnetic extraction can take place,
- geography, demography and population density, cultural and economical factors.

**Steel packaging recycling will continue to grow in Europe**

As noted above, steel, thanks to its magnetic properties, lends itself easily to automatic extraction by electromagnet in sorting centres, composting centres or in household waste incinerators. The extended geographical cover of selective collection systems in Europe, supported by our industry, together with an increased need for waste incineration capacities as an alternative to landfill sites, has boosted the success of its recycling, with annual recycled quantities tripling within the space of 10 years. Limitations to growth in the recycling of steel packaging are essentially linked to the lack of collection infrastructure, but recycling outlets are guaranteed since recycled steel is an essential ingredient in the production of new steel products.

The recycling rates for steel packaging are likely to level off in the next few years in the countries where substantial recycling rates have already been achieved. Whilst steel packaging recycling will continue to grow in EU15, the overall European recycling rate could fall due to the accession of 10 additional Member States in the EU, in which collection systems are not yet widespread. The steel industry is committed to further promoting recycling in Europe.

## **II. Feedback on specific points of the Thematic Strategy on the Prevention & Recycling of Waste<sup>1</sup>**

### **4.3. Recycling targets**

#### **Material vs. product targets**

Material-stream targets are worth exploring: we find interesting the idea of applying the former waste stream approach to set collection targets. Indeed, steel featuring a closed loop recycling “steel in steel” (e.g. a steel product may be recycled into any other steel product, but not necessarily into exactly the same one), recycling targets set per material (i.e. for steel globally) would be particularly relevant to our industry structure.

However a recycling target per material could prove difficult if not impossible to put into practice :

- Firstly, there is currently no method to assess the global recycling rate for any material which is consumed in a vast range of markets. This is due to the fact that the duration of the life cycle of steel products differs from application to application : from one year or less for packaging, up to 12 years for automotive and white goods (e.g. household appliances), and over 20 years for steel beams used for construction. This makes the determination of a recycling rate extremely complex as the adaptation of the scrap stock (build-up or depletion) is a dynamic process influenced by many factors (growth in the demand for steel applications, scrap price, ...). Even for packaging applications with a shorter life cycle, the assessment of consumption figures is always a critical issue and is not harmonised at EU level. This is not a problem unique to steel, by any means. We are simply raising the issue of how such material recycling rates would be measured.
- Secondly, setting global targets for materials would imply a fair and harmonised definition of the responsibility to achieve the material recycling rates. Indeed, it would not be equitable for raw material producers alone to bear total responsibility for the collection of the material. If the EU is to have targets for every material in the waste stream, there are strong arguments that the cost and responsibility are borne by society as a whole. Therefore, producer responsibility raises some concerns in this context, if interpreted too narrowly.
- Thirdly, the impact of such targets on the functioning of the scrap market should be assessed prior to implementation.

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<sup>1</sup> The numeration follows the structure of the Thematic Strategy on Prevention & Recycling of Waste

- Lastly, as for the packaging material recycling targets (soon to be adopted by the EU once the conciliation procedure is over), a cost-benefit analysis would have to be performed by the Commission prior to the setting up of global material targets.
- With regard to targets set for packaging materials in Directive 94/62/EC, it is important to improve the efficiency of recycling targets. The present material-specific targets for packaging are not based on environmental assessment, only a rather superficial and subjective study. They do not provide sufficient flexibility to minimise cost / optimise resource efficiency.

### **Member States vs. Community targets**

Given that steel is an internationally recycled material, and that steel scrap is internationally traded for recycling, national boundaries are in fact an irrelevance to its recycling. The industry really does question therefore the long term logic for setting national recycling targets. Community targets are more relevant to this material, and allow national flexibility in recycling, to the benefit of the environment and in economic terms.

However, such an approach can only be envisaged once responsibilities for reaching the targets have been clearly defined.

### **5.2 Instruments to promote waste prevention**

APEAL believes that *it is inappropriate to set mandatory prevention targets either at national or at EU level*. Instead, voluntary agreements should be promoted and discussed between all the members of the packaging chain (raw material suppliers, converters, packer-fillers, retailers), consumers and public administrations as a recognition of a shared responsibility.

Prevention targets or indicators are based on the illusion that a complex reality can be reduced to oversimplified figures. In addition, packer/fillers already minimise the use of packaging in order to reduce the costs of their packaging, and any associated weight-based recycling fees. These incentives are already strong.

*Reuse and recycling should be considered equivalent options to achieve prevention*. There is no solid environmental justification for the hierarchy, and operating according to it actually therefore represents a threat to the environment. It is important that the EU becomes much more objective in its assessments and pragmatic in its recycling solutions.

*There has in the past been too much discussion on packaging as an isolated item, whereas it should be considered only in conjunction with the contents of the packaging, as a total system*. It is then apparent that packaging saves very much more waste than it produces.

#### ***5.2.1. Measures specific to quantitative prevention***

*Light-weighting of steel packaging is an example of successful achievement of quantitative prevention*. In terms of prevention by weight reduction, improvements of the weight/volume ratio of a steel can have been made in the absence of any imposed targets due to both environmental and economic considerations. The stimulation of innovation can harvest the best results in terms of prevention. Mandatory targets would disrupt competition between packaging materials and would not take into account technical limitations of each material.

*In addition, the situation has to be assessed for each particular market segment due to the functional properties of the end product : downgauging an aerosol can which has to withstand an internal pressure of 18 bars is something different to lightweighting steel beverage cans, with a lower internal pressure but with high production speeds.*

The steel industry has developed over the years increasingly lighter packaging solutions which require less raw material and lower energy consumption to produce. Thanks to the development of new steel grades, it is today possible to produce steel beverage cans with a wall thickness of approximately 67 microns, corresponding to the thickness of a human hair. The drinks can has lost half of its weight in 30 years with no loss of mechanical performance. This is a clear commitment to prevention, driven by economics and competition, not by legislation.

*In our view, the effective recycling of end of life packaging is also a way to prevent packaging waste going into landfills and contributes to the sustainable use of resources. With a 60% achievement in 2002 in Europe, steel packaging recycling enabled considerable savings of energy and raw materials which would have been needed if no recycling occurred.*

### ***5.2.2. Measures specific to qualitative prevention***

The impact of the use of the CEN prevention standard (EN 13428) in ensuring qualitative prevention of packaging needs first to be assessed before any additional measures are taken.

### **5.3. Instruments to promote waste recycling**

The steel industry recognises the merit of looking at the most efficient ways to promote the recycling of secondary raw materials, which is a pillar of the sustainability of our industry.

APEAL believes that the use of voluntary agreements should be further explored as an alternative to command and control policies, which could negatively affect well organised and functioning scrap markets.

#### ***5.3.1. Landfill taxes***

In general APEAL believes that landfill taxes can be raised in some countries to drive diversion of waste towards recycling and biological treatments. However there will always be the need for controlled landfills in order to dispose of some specific waste.

#### ***5.3.2. Producer responsibility***

Existing producer responsibility policies do not share a common definition of "producer." There is considerable variation in how the "producer" is defined, although usually it is the company whose brand name appears on the product. In the UK, raw material producers, converters, packer/fillers and sellers are all classed as "producers", whereas in the Netherlands efficient collection and recycling systems are in place where no producer responsibility is implemented. Therefore European harmonisation of the definition of "producer" should be agreed for countries where producer responsibility is implemented. A shared responsibility between industry, public authorities and the end consumer would be recommended.

It seems to us therefore that :

- where integrated waste management exists, society as a whole takes responsibility through the implementation of a national waste management strategy
- where it does not exist, legislators tend to place the responsibility on “producers”, no matter how they are defined
- invariably those producers do not have direct control of the waste stream, since that is under the statutory control of local government
- producer responsibility can be problematic in the sense that
  - Producers need control if they are to be charged with responsibility
  - It is not a substitute for integrated/sustainable waste management
- Where producer responsibility is adopted, it should include a wide range of responsibilities, not only for the supply chain but for those in control of the waste stream.

### ***5.3.3. Tradable certificates***

The PRN system for packaging recycling in the UK has been in existence since 1998 and has some merits and an economic cost for industry. It needs careful monitoring and enforcement to see that each obligated company and compliance scheme plays its part. In the sense that recycling does not recognise national boundaries (materials are exported across them for recycling), a wider tradable certificate system for Europe holds some attractions. However, the manner in which it would work in practice would need careful thought and development.

### ***5.3.4. Pay-as-You-Throw Schemes***

Pay-as-You-Throw Schemes, based on volume- or weight-based waste charges, could prove helpful in encouraging householders to recycle more. However, their introduction would need to be carefully phased to coincide with the introduction of the appropriate collection facilities for recyclables.

## **5.4. A level playing field for recycling**

APEAL is currently looking at harmonising the national packaging steel scrap specifications in the EU, which would create a common standard for the recycling of steel packaging in Europe. This approach might be more widely accepted to provide the “level playing field”.

## **5.5 Accompanying measures**

### ***5.5.1.2. Definition of waste***

The demand of ferrous metals fluctuates according to many variables: consumer demand, existing production capacities, price of primary metals and ores, currency exchange rates, processing and labour costs, freight costs, export quotas or import duties, etc... The ferrous recovery and recycling industry depends on free trade; it is driven by supply and demand.

In the case of steel scrap, regulators should consider the use value and the destination of the material as the determining factors to distinguish recyclables from waste. Furnace feed materials to be recycled should be regarded as valuable inputs to industrial processes and should not be defined or regulated as waste. These measures hinder recycling rather than promote it.

### **5.5.3. Demand side measures**

Since every steel product is wholly or partly made of recycled material, the demand for recycled materials in the steel industry is ensured and increasing.

#### **Recycled content vs. recycling rate**

The steel industry agrees with the position of the European Commission that mandatory requirements for recycled contents should not only be avoided but we believe it should be absolutely discouraged. We believe, as the Commission suggests, that *“it might be more suitable to stimulate the supply side, inter alia by providing financing for collection and allowing market forces to determine where the resulting materials can most effectively be used”*.

The following elements explain our position :

- Such a measure discriminates against materials like steel operating a closed loop recycling system “steel in steel” but which does not feature an unnecessary restrictive closed-loop system “application by application” (e.g. packaging recycled into packaging, or scrap from end-of-life vehicle recycled only to make new steel for cars),
- For steel products, there is no need to stimulate the demand for recycled material since every steel product is partly or wholly made of recycled scrap,
- The environmental benefit from increased recycled content is dubious :
  - In a system with high end-of-life recycling, such as steel, the resource is still available for continued use in future systems. This is not the case for systems with high recycled content, but low end-of-life recycling,
  - A recent sensitivity analysis carried out by TNO has demonstrated that the environmental profile of the steel beverage can is not sensitive to changes in the input of steel scrap.
- The material chosen to meet the requirements of a minimum recycled content can well lead to a conflict with consumer health regulations, in particular when considering food contact materials,
- The potential barriers to free trade, both within the Community (Art. 28 EC) and outside, in particular the compatibility of such requirements with WTO rules under the Agreement on Technical Barriers to Trade (TBT)<sup>2</sup>,

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<sup>2</sup> According to Art. 2.2 of the TBT Agreement, *“(WTO) members shall ensure that technical regulations are not adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For*

- The marking of a product with “recycled content” statement may often lead to a misunderstanding and poor decision on the part of the consumer as high recycled content does not always correlate to environmental benefit. Furthermore, an obligation to appose a “recycled content” label may restrict imports from other EU Member States. Indeed, following the notification of Belgian Royal Decrees implementing the principle of tax exemption based on recycled content, the Commission has issued a detailed opinion against the mandatory labelling of packaging containing the required recycled content. In its detailed opinion, the Commission considered that the obligation to appose a “recycled content” label on packaging may constitute a measure having an equivalent effect to quantitative restrictions on imports prohibited under Art. 28 EC<sup>3</sup>,
- The claim for recycled content can never be validated by analysis of the product, therefore the veracity of claims cannot be effectively tested and proved.

#### Lessons from the Belgian experience :

We think that the Belgian recent experience of recycled content legislation provides a good demonstration that recycled content is too technical and restrictive to be used as a general criteria for environmental performance without seriously disturbing the market.

On 30 December 2003, Belgium introduced into its legislation the notion of “recycled content” as a criteria for exemption from a new packaging tax. As a direct consequence of the numerous issues raised by the use of recycled content as a mandatory requirement (health / food contact issues for drinks cartons and PET bottles, EU Competition law in application of State aid rules, discrimination against imports from other EU member States ...), the entry into force of the packaging tax was postponed 3 times in 2003. Following those postponements, the tax was due to enter into force on 1 January 2004. However, in November 2003, as none of those problems had been solved yet, the Belgian government decided to dissociate the implementation of the packaging tax on one-way beverage containers from the exemption based on recycled content. The tax will be implemented on 1 April 2004 while the opportunity and conditions for any exemption based on recycled content will be decided at a later stage. If the exemption based on recycled content had been implemented, packaging materials containing more than 50% of recycled content (essentially PET bottles) would have been put on an equal footing with refillable containers. More precisely, PET one-way containers would have been exempted from a € 0.1162 / l. tax and would have gained a substantial competitive advantage over materials for which recycled content makes no sense in terms of environmental performance and is economically inefficient. While the original aim of the Belgian legislator was to introduce a tax on disposable packaging in order to protect refillable containers, the exemption based on recycled content would have clearly promoted one-way PET containers which are in fact the fastest growing substitute to refillable bottles in Belgium. The fact that the exemption based on recycled content was in practice undermining the alleged environmental benefit of the Belgian legislation has been emphasized by Belgian environmental NGO’s (See joint NGO’s

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*this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective ...”.*

<sup>3</sup> Commission communication n° SG(2003) D/50502 concerning Notification n° 2002/0494/B under Directive 98/34/CE

Press release dated 16 December 2002 by Bond Beter Leef Milieu, Inter-Environnement Wallonie, Brusselse Raad voor het Leefmilieu and Inter-Environnement Bruxelles - <http://www.iewonline.be/Presse.htm>). That being said, we do not agree with the principle of a tax discrimination between one-way and refillable packaging.

Our overall conclusion on recycled content is that, while it may be to some a superficially attractive concept, for an easily recycled product like steel, in practice it constrains recycling to a particular closed loop, rather than promotes it by allowing the full range of recycling possibilities. Recycled content may therefore be appropriate to some products, but certainly not to all, and it should certainly not be applied to all in terms of setting a mandatory level of recycled content on a particular product.

#### ***5.5.4. Education and training***

Consumer education and information is paramount to promote the implementation of policies in the area of waste prevention and recycling. A benchmark between national schemes of anti-litter solutions should be encouraged and budgets allocated at EU level to promote environmental education in schools.

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