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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 July 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	REGULATORY SCRUTINY BOARD OPINION Waste Framework Directive Food Waste Reduction Targets

Delegations will find attached document SEC(2023) 420 final.

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REGULATORY SCRUTINY BOARD OPINION

Waste Framework Directive
Food Waste Reduction Targets

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EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels,
RSB

Opinion

Title: Impact assessment / Waste Framework Directive – Food Waste Reduction Targets

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Waste Framework Directive (WFD) lays down basic waste management principles. It requires waste to be managed without endangering human health or harming the environment. It sets out when waste ceases to be waste and becomes a secondary raw material, and how to distinguish between waste and by-products. The Directive also introduces the "polluter pays principle" and the "Extended Producer Responsibility".

The Circular Economy Action Plan and the EU Strategy for Sustainable and Circular Textiles' (EU Textiles Strategy) call for reinforced and accelerated EU and national action to prevent waste and to improve circularity of textiles. This report considers policy options for reducing textile and food waste.

(B) Summary of findings

The Board notes the changes to the report responding to the Board's previous opinion.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DGs to rectify the following aspects:

(1) **The report does not demonstrate the effectiveness of setting the EU level mandatory Member State food waste reduction targets in addressing the identified problems. It does not convincingly explain how the targets should be implemented, nor assess how they are feasible.**

(2) **The report does not provide any alternative options for measures on food waste reduction other than mandatory targets.**

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(C) What to improve

(1) The report should justify with evidence the setting of EU mandatory food waste reduction targets, when the problems and their drivers comprise behavioural issues such as consumer food management and lack of understanding of safety standards, and the cited examples of Member State best practice are largely based on behavioural nudging. It should also explain how Member States would be expected to implement these targets, and whether their implementation is feasible, in particular considering the contrasted situation between Member States.

(2) The report should provide and assess alternative choices to address the problems and their drivers other than only the choice of mandatory targets of differing levels for Member States. The report should explain why concrete measures aiming at addressing the specific problems such as consumer behaviour and inefficiencies in the food chain management have not been considered and assessed. Given the focus on reducing food waste at the point of consumption, it should explain why measures designed to promote behavioural change have not been assessed.

(3) The report should better justify the choice of the preferred option. The effectiveness analysis should not simply assume that targets would be reached, but show that the preferred option is the best approach to ensure such outcome. The extent to which Member States have sufficient governance and enforcement capacity for the targets to be implemented should form part of the assessment of the effectiveness of the options. It should also better explain the methodology of the feasibility scoring.

(4) The report should present the estimates in a clear and comprehensive manner and ensure the consistency of the figures throughout. In particular, it should ensure that quantitative costs and benefits used throughout the report are consistent, should explain further the relationship between farmers' income, trade and other elements for the calculation of costs, and should include the costs identified in the overview table of benefits and costs.

(5) The interpretation of the outcome from the MAGNET modelling should consider some conclusions of the feasibility analysis section, in particular the fact that the target for food waste reduction in primary sector for the most ambitious target is uncertain, based on the experience of countries already performing action plan in food waste reduction.

(6) The report should more convincingly explain the EU dimension of food waste and better justify how EU-level intervention is consistent with the principle of subsidiarity.

(7) The report should strengthen the comparison of options on textiles. The analysis should focus on the combination of policy measures with available policy choices and on providing a clear overview vis-à-vis effectiveness/efficiency and coherence. The basic information in the annexes should be summarised and presented better in the main report. The policy measures should be clearly compared in terms of effectiveness, efficiency and coherence with sufficient explanations. The comparison of options/measures should also include an overview table on the impacts on consumers, producers, waste management enterprises and public authorities.

(8) The report should improve the presentation of the impact on competitiveness of the textile options. The key information from the assessment of individual policy measures addressing various competitiveness aspects currently in the annex should be brought to the main report to substantiate the conclusions.

(9) The report should make it clear if all SMEs are exempted from the Extended Producer responsibility scheme or if the exemption is only for micro enterprises.

(10) The One In, One Out estimates for the textile area should be presented in the dedicated section in the main report. The section should also explain why certain elements were not estimated.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

(D) Conclusion

The DGs must revise the report in accordance with the Board's findings before launching the interservice consultation.

Full title	**Waste Framework Directive – Food Waste Reduction Targets**
Reference number	PLAN/2021/12032 PLAN/2021/11886
Submitted to RSB on	3 May 2023
Date of RSB meeting	Written procedure

EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels,
RSB/

Opinion

Title: Impact assessment / Waste Framework Directive – Food Waste Reduction Targets

Overall opinion: NEGATIVE

(A) Policy context

The Waste Framework Directive (WFD) lays down basic waste management principles. It requires waste to be managed without endangering human health or harming the environment. It sets out when waste ceases to be waste and becomes a secondary raw material, and how to distinguish between waste and by-products. The Directive also introduces the "polluter pays principle" and the "Extended Producer Responsibility".

The WFD mandates Member States to set up separate collection for bio-waste (including food waste) by 31 December 2023 and for textiles by 1 January 2025. It also mandates the Commission to assess the feasibility of establishing a Union-wide food waste reduction target by the end of 2023.

The Circular Economy Action Plan and the EU Strategy for Sustainable and Circular Textiles' (EU Textiles Strategy) call for reinforced and accelerated EU and national action to prevent waste and to improve circularity of textiles. The Farm to Fork Strategy calls for the introduction of legally binding targets to reduce food waste across the EU.

This report considers policy options for reducing textile and food waste.

(B) Summary of findings

The Board notes the additional information provided and commitments to make changes to the report.

However, the Board gives a negative opinion because the report contains the following significant shortcomings:

(1) The intervention logic for both food and textile waste sectors is not clear and not specific enough.

(2) The report does not sufficiently demonstrate the cross-border dimension of the problems and the EU added value. Regarding food waste, it does not demonstrate the need for and effectiveness of setting a mandatory reduction target at EU level.

(3) The options are not adequately presented or justified.

(4) The assessment and the comparison of options are not sufficiently developed.

(C) What to improve

(1) The report should present a more detailed, clearer, and more coherent intervention logic. It should better consider the specificities of both food and textile waste sectors and better explain the rationale behind the design of the policy options. These should refer clearly to the problems, their drivers and relevant specific objectives. In the area of food, the report should better explain to what extent a sole mandatory target will contribute to address the market and behavioural failures in different Member States with differing baselines.

(2) The report should provide a clear and evidence-based assessment of the EU dimension of intervention in the two sectors. It should better explain the cross-border nature of the textile re-use and waste management value chain following waste collection as well as the transboundary impacts of waste generation and treatment on the environment. It should provide clear evidence on the material/waste trade within the EU. It should explain the EU dimension of food waste and its prevention, and demonstrate how the imposition of equal level, binding, targets for food waste would respect the principle of subsidiarity given the widely differing situation in each Member State. In doing so, the report should be explicit as to why alternative measures, including setting mandatory or voluntary targets by Member States, would not be sufficient, taking into account the best practices of Member States. It should better substantiate the lack of effective and coordinated action by Member States reflecting more specifically the measures already in place, and explain how setting a target would be effective in addressing the identified deficiencies. It should better explain why mandatory EU level target[s] are considered as the only way to make food prevention a long-term political priority given that the cited case studies point to behavioural nudging as key. It should explain why it did not assess other potential concrete measures aiming at improving Member States' performance and coordination.

(3) The baseline should be improved. It should further elaborate on the likely evolution of the problem given the implementation of existing and upcoming relevant legislation, in particular the upcoming separate collection obligation. The report should better explain why waste generation is expected to increase despite this legislation, efforts at Member State level and the EU commitment to Target 16 of the UN COP15 Global Biodiversity Framework. It should also further explain how the baseline takes into account the likely technological development and consumer trends and any post pandemic / energy crisis effects.

(4) Overall, the proposed targets should be precisely defined in terms of periodicity, numerator, denominator, and statistical base. The extent to which Member States have a sufficient governance structure and enforcement capacity in place for targets to work effectively should be addressed. If such governance and enforcement does not exist, the report should consider the consequences.

(5) In the area of food waste, the report should explain what the additional commitments added to the SDG Target 12.3 are and why no stand-alone SDG Target 12.3 option was considered, reflecting the existing EU and Member States commitments. Given technical feasibility issues for some of the options, the report should also explain why not staged options were considered. The report should explain how setting a binding EU level target would in itself ensure that Member States undertake efficient and effective measures and processes. It should also give a better idea of concrete measures that can be pursued to reduce waste and their effectiveness, for instance based on best practices identified. Alternatives such as voluntary or differentiated targets at Member State level should be considered.

(6) The report should better explain how the Extended Producer Responsibility (EPR) option is intended to work and what will be determined by the Commission (via implementing legislation) and what will be decided by Member States.

(7) The assessment of impacts for textiles is not sufficiently developed. The report should assess all relevant significant impacts. This should include the analysis of the changes in textile treatment under each option as well as the impact on prices (and the likely cost pass through to customers) and the competitiveness of producers and waste management operators. The report should be clearer about the additionality of the costs of the EPR option. It should clarify to what extent the expected quantified benefits can be attributed to the measures envisaged.

(8) The impact analysis for the food waste sector should better explain the key limitations and uncertainties of the modelling approach, in particular as the approach assumes that the targets would be reached. The results of the MAGNET model should be qualified by addressing the assumptions and the key uncertainties of the model related to the parameter choices and the underlying data. The report should further improve the presentation of the distributional impacts. It should be clear about the net benefits or costs for each actor of the agro-food value chain. The trade implications should also be further explained.

(9) The report should improve the section on the One In, One Out approach to include the total estimates for business and citizens. It should also better explain why certain cost savings were not quantified.

(10)The comparison of options should be improved. The options should be assessed against relevant criteria reflecting effectiveness (relevant specific objectives), efficiency and coherence. The comparison of options should be based on a revised intervention logic with clearly specified specific objectives and linked specific problems allowing a more precise effectiveness assessment, including as regards the effectiveness of the envisaged measures towards actually meeting the targets. The technical feasibility aspects should be better brought out, so that the delivery risks associated with more ambitious options become clearer.

(11) The current structure of the report is very difficult to read (swapping constantly between textiles and food). The report should consider ways to present the two issues in a clearer, more decision-maker supportive manner. The core report should be self-standing to the extent possible, and annexes should be confined to additional information on specific issues.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion **The DGs must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.**	
Full title	**Waste Framework Directive – Food Waste Reduction Targets**
Reference number	PLAN/2021/12032 PLAN/2021/11886
Submitted to RSB on	15 February 2023
Date of RSB meeting	15 March 2023

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