

## **Update EU issues March 2017**

### **Circular Economy Package**

The CE Package of the Commission of end-2015 has recently been discussed by Parliament (Environmental Committee) and Council. Specifically the proposal for amendment of the Waste Framework Directive is of importance to FIR. Both Parliament and Council seem to be more ambitious to achieve the Circular Economy than the Commission. Many amendments are made to enhance the quality of the Directive. The amendments touch on all subjects of the Directive, such as targets, monitoring of targets, prevention and eco-design.

As for mineral waste the Directive and recent amendments bring not very much news. As for C&DW selective demolition and sorting are supported and a definition is provided. A main issue for recycling has not been repaired: backfilling is still part of all proposals and amendments. There will be a new round of discussion between the EU institutes to find agreement on final texts. The FIR Secretariat meets on 11 April with the Commission to discuss, amongst others, key issues of the package. A summary of some relevant amendments by Parliament and Council is attached.

### **Strategy for Energy from Waste**

In January 2017 the European Commission issued its strategy for Energy from Waste. In an underlying study for this strategy paper, an inquiry was made of best techniques to optimize the efficiency of energy from waste. This study has identified the recycling of IBA as an important activity. In the strategy paper recycling of IBA is not specifically mentioned. The Commission emphasises the secondary role of waste to energy compared to reuse and recycling. It stresses that the role of waste to energy must be carefully assessed taking a long term perspective. The Communication provides for a framework to strike the right balance while also providing for recommendations to optimise the energy output from waste to energy options.

Specifically the Commission concludes that when planning waste to energy capacity, Member States should assess the capacity for co-incineration in combustion plants and in cement and lime kilns. As high rates of incineration are not consistent with ambitious recycling targets, the Commission recommends to look into options such as incineration taxes.

The Commission has found that these are the best proven techniques to increase energy efficiency:

- Co-incineration in combustion plants by gasification of Solid Recovered Fuel (SRF)
- Co-incineration in cement and lime kilns (also known as co-processing)

- For waste incineration in dedicated facilities to use optimisation options such as super heaters, heat pumps and distributing heat in heat networks
- Upgrade biogas from anaerobic digestion to biomethane

### **BREF Waste Treatment**

On 19 – 24 March the draft version of the revised BREF Waste Treatment was subject of heavy discussions between the EIPPC bureau of the Commission and the waste industry. The BREF identifies best available techniques (BAT) and related “AEL” (associated emission levels). BAT and AEL will be prescribed in permits of waste management plants falling under the scope of the BREF. Recycling of non-hazardous C&DW and of IBA are not in the scope. The storage (more than 50 tonnes) of hazardous waste and treatment of hazardous waste are however in the scope. Recycling of IBA falls in the scope of the BREF Waste Incineration, this BREF is currently also in revision. Preparation of secondary fuels is also in the scope.

At the meeting each and every BAT and AEL was discussed into detail. As the EIPPC bureau had already adjusted AEL's, which were initially set rather tight, the overall feeling of the waste industry was that the final conclusions can be lived with. This was also because several main comments from stakeholders were taken on board. For instance a requirement to install impermeable surfaces is now only valid when risks to soil and groundwater can be expected.

The new BREF will have to be implemented in permits within four years after having come into force. The effects will differ per installation of course, depending upon the requirements in existing permits.

### **List of Waste – HP14**

A final proposal of the Commission for a legislative text regarding HP14 was not adopted by the Technical Adaptation Committee. This means that now the European Council has to take a decision and that it will also pass the Parliament. At least this will mean a delay, in an extreme case it may lead to a new process of making proposals. The latter is not very likely though, based on information received. Using the current proposal, Member States have the option of making use of alternative methods for HP14 than the proposed criterion based on composition.

## Overview of amendments ENVI January 2017

*This document contains a summary of relevant text proposals of the Committee on the Environment, Public Health and Food Safety (ENVI) of the European Parliament, response to the proposal of the Commission for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste. In regular text are the proposals of ENVI, in italic are some comments made by the Secretariat. Text in **bold** is new text of ENVI.*

**3a. Member States shall apply the waste hierarchy in order to enhance the transition towards a circular economy. To this end, in accordance with Regulation (EU) No 1303/2013, Member States shall apply the waste hierarchy when allocating all Union funds and they shall prioritise prevention, re-use, preparation for re-use and recycling in the investments in the waste management infrastructure.**

⇒ *ENVI is far more ambitious to realise a Circular Economy than the Commission. It proposes many new amendments that must facilitate the transfer to a CE. Also ENVI often changes wordings as "may" into "shall".*

"17. "recycling" means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes **organic recycling** but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;"

⇒ *No changes relevant for FIR: crushing leading to use for construction is not a recycling operation anymore*

17b. "backfilling" means any recovery operation **other than recycling** where suitable **non-hazardous inert waste or other non-hazardous waste** is used for reclamation purposes in excavated areas or for engineering purposes in landscaping or construction instead of other non-waste materials which would otherwise have been used for that purpose **and is used in quantities that do not exceed that which is strictly necessary for the reclamation or engineering purpose;**

⇒ *Although there were slight hopes that backfilling may be dropped, this is not the case.*

"20a. "sorting" means any waste management operation which separates collected waste into different fractions and sub-fractions ;";

**In order to contribute to the objectives laid down in this Directive, Member States are able to make use of economic instruments or measures such as those set out in the indicative list in the Annex to this Directive. Member States should also take measures to help achieve a high quality of sorted materials.**

**"Member States shall make use of regulatory and economic instruments in order to incentivise the uptake of secondary raw materials.**

⇒ *ENVI puts emphasis on creating markets, amongst others by highlighting the need for quality materials*

"2. Member States **shall** take appropriate measures **that** encourage **producers to improve** the design of products **and components of products** in order to **enhance resource efficiency**,

**(14a) Member States should support the setting up of systems which promote re-use activities and the extension of the life span of products provided that quality and safety of products are not compromised. Such systems should be set up in particular for electrical and electronic equipment, textiles, furniture, construction materials, tyres and as referred to in Article 5 of Directive 94/62/EC packaging.**

⇒ *Re-use of construction materials is promoted here, although this clause is not very stringent*

Member States shall take measures to **ensure** sorting **of** construction and demolition waste for at least the following: wood, **mineral fractions (concrete, bricks, tiles and ceramics)**, metal, **plastics, gypsum**, glass and plaster **Member States may use measures as listed in Annex IVa.**

⇒ *ENVI extends the obligation of sorting to more materials.*

**Member States shall incentivise pre-demolition audits in order to minimise the content of pollutants or other undesirable substances in construction and demolition waste and thus contribute to high quality recycling.**

⇒ *This concerns the models that the Commission has developed for pre-demolition audits*

5. For the purposes of calculating whether the targets laid down in Article 11(2)(c) and (d) and Article 11(3) have been achieved Member States may , **after the adoption by the Commission of the delegated act referred to in paragraph 6 of this Article**, take into account the recycling of metals that takes place in conjunction with incineration **or co-incineration** in proportion to the share of the municipal waste incinerated **or co-incineration** provided that the recycled metals meet certain quality requirements **and that waste has been sorted prior to incineration or the obligation to set up separate collection for paper, metal, plastic, glass and bio-waste has been complied with.**

⇒ *This is unclear: is metal recovery from IBA processing included?*

**(16a) In order to ensure the uptake of high quality secondary raw materials, the output of the final recycling process should uphold quality standards. For this reason the Commission should request the European standard organisations to develop standards for both waste materials entering the final recycling process and the secondary raw materials, in particular for plastics, based on the best production practices on the market.**

⇒ *For recycled aggregates and IBA such standards exist. This article may concern members that perform sorting of mixed waste.*

**(-I) The following Annex IVa is inserted:**

**'Annex Iva**

**Indicative list of instruments to promote a shift to a circular economy**

**1. Economic instruments:**

**1.1 progressive increase of landfill taxes and/or fees for all categories of waste (municipal, inert, others);**

**1.2 introduction or increase of incineration taxes and/or fees;**

⇒ *Here ENVI proposes incineration taxes as a means to support recycling.*

3. Waste which **has** ceased to be waste in accordance with paragraph 1 may be **taken into account** for the purpose of the calculation of the achievement of the **preparation for reuse, recycling or recovery** targets set out in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU of the European Parliament and of the Council(\*) if it has been subject to **respectively** a preparing for reuse, recycling or recovery **operation** in accordance with those Directives. **The weight of waste which is considered to have ceased to be waste may be reported as recycled if the materials or substances that have ceased to be waste are to be subject to reprocessing, excluding energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.**

⇒ *This article is not related to the 70% target. However, it stresses once more that “reprocessing for backfilling operation” does not contribute to recycling targets. It also implies that recycling as it is we know it must be seen as “reprocessing for backfilling”. Member States that have known high recycling rates for decades will fall down to “0%”.*

## Presidency compromise text on the Commission proposal amending the Waste Framework Directive

*This document contains a summary of relevant text proposals (related to FIR issues) of the European Council in response to the proposal of the Commission for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste. In regular text are the proposals of the Council, in italic are some comments made by the Secretariat. Text in **bold** is new text of ENVI.*

(6a) While the definition of construction and demolition waste refers to waste resulting from construction and demolition activities in a general way, it also includes waste arising from minor do-it-yourself construction and demolition activities within private households.

(6b) The definition of backfilling should be introduced to clarify that it means any recovery operation of suitable [...] non-hazardous waste for the purposes of reclamation in excavated areas or for engineering purposes in landscaping and infrastructure and construction foundation such as for roads. The waste used for backfilling should be limited to the amount strictly necessary to achieve these purposes. The definition of backfilling does not exclude that reprocessing of waste into secondary raw materials for engineering purposes in construction of roads or other infrastructures may fulfil the definition of recycling, if the use of materials is based on proper quality control and meets all relevant standards, norms, specifications and environmental and health protection requirements for the specific use.

⇒ *Here it actually says that backfilling is fine and for that no quality control is required and it needs not meet requirements for environmental and health protection. Member States may (!) call crushing of C&DW recycling, but then quality control is required and requirements for environment and health must be met.*

(d) the following point 4a is inserted:

'4a. "construction and demolition waste means **waste [...] generated from construction and demolition activities;**"

‘17b. "backfilling" means any recovery operation where suitable [...] **non-hazardous** waste is used for purposes **of reclamation in** excavated areas [...] or for engineering purposes in landscaping **and infrastructure and construction foundation**. **Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve these purposes.**’

- 'Member States shall take measures to promote **selective demolition in order to enable removal and safe handling of hazardous substances and facilitate reuse and high quality recycling by selective removal of materials**, as well as sorting systems for construction and demolition waste for at least the following: wood, [...] **mineral fractions (concrete, bricks, tiles and ceramics, stones)**, metal, glass, **plastics and plaster, in order to attain the target set out in paragraph 2(b).**;

4. By 31 December 2024 at the latest, the Commission shall [...] **review** the targets laid down in paragraphs 2(d) **and 2(dd) with a view to maintain or, if appropriate, to increase them** and consider the setting of targets for other waste streams, **including for construction and demolition waste and its material-specific fractions and for textile waste**. To this end, a report of the Commission, accompanied by a proposal, if appropriate, shall be sent to the European Parliament and the Council.';

- 4b. **The amount of waste materials that have ceased to be waste as a result of a preparatory operation before being [...] reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, be incinerated, backfilled or landfilled, cannot be counted towards the recycling targets.**

⇒ *Unclarity: can such end-of-waste material still contribute to the 70% target for C&DW when backfilled? Strange article anyhow: why have end-of-waste for materials to be incinerated, landfilled or backfilled?*