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**COMMITTEE FOR THE ADAPTATION TO SCIENTIFIC AND TECHNICAL
PROGRESS AND IMPLEMENTATION OF THE DIRECTIVES ON WASTE
ESTABLISHED UNDER ARTICLE 39 OF DIRECTIVE 2008/98/EC**

DIRECTIVE 2008/98/EC (WASTE FRAMEWORK DIRECTIVE – WFD)

MINUTES OF THE MEETING HELD ON 17 NOVEMBER 2014

Chair: European Commission, DG Environment (COM)

Members present:

AUSTRIA	Federal Ministry of Agriculture, Forestry, Environment and Water Management
BELGIUM	Service Public de Wallonie (SPW)-Direction générale opérationnelle Agriculture, OVAM-Flemish Public Waste Agency
BULGARIA	Ministry of the Environment and Water
CYPRUS	Absent
CZECH REPUBLIC	Ministry of the Environment
DENMARK	Danish Environmental Protection Agency
ESTONIA	Ministry of the Environment
FINLAND	Ministry of the Environment
FRANCE	Ministère de l'écologie, de l'énergie, du développement durable et de la mer (MEEDDM)
GERMANY	Ministry of the Environment
GREECE	Ministry of the Environment
HUNGARY	Ministry of Rural Development
IRELAND	Environmental Protection Agency
ITALY	Ministry of the Environment
LATVIA	Ministry of the Environment and Protection and Regional Development
LITHUANIA	Ministry of the Environment and Protection and Regional Development
LUXEMBOURG	Environmental Agency
MALTA	Malta Environment & Planning Authority
NETHERLANDS	Ministry of Infrastructure and the Environment
POLAND	Ministry of the Environment.

PORTUGAL	Environnement Agency
ROMANIA	Ministry of the Environment
SLOVAKIA	Absent
SLOVENIA	Ministry of the Environment
SPAIN	Ministry of the Environment
SWEDEN	Environmental Protection Agency
UNITED KINGDOM	Department for the Environment, Food and Rural Affairs (Defra).
CROATIA	Ministry of Environmental and Nature Protection

Observer: Norway, Norwegian Environment Agency

1. APPROVAL OF THE AGENDA

The agenda was adopted without amendments.

2. ADOPTION OF SUMMARY RECORDS OF THE MEETING OF 18 OCTOBER 2013

The summary records were adopted without amendments.

3. END-OF-WASTE ISSUES

COM recalled that the draft proposal on EoW criteria for **recovered paper** was subject in December 2013 to a motion for a resolution by the European Parliament which succeeded. As a result of this, the COM has decided not to pursue this issue any longer. Notwithstanding, as Article 6 (4) of WFD allows MS can set up national EoW criteria for this waste stream

COM presented a study launched in October 2013 regarding the **monitoring impacts from Council Regulation (EU) No 333/2011: End-of-waste criteria for Al/Fe scrap**. The aim of this study was to check for the uptake and any adverse effects on the recycling markets for iron, steel and aluminium scrap from the introduction of the EoW Regulation 333/2011. This exercise focused in particular on the availability of, and access to, such scrap, as stipulated in recital 5 of the Regulation.

COM explained the intention to include **biodegradable waste** into the Fertilizers Regulation 2003/2003EC, currently under revision. This means the future Regulation would regulate the placing on the market of waste-derived fertilizers. As a result of this, COM informed the group that it will not propose to the Committee EoW criteria for biodegradable waste as this would be a duplication of legislation.

COM explained the JRC's report delivered on **EoW criteria for plastic waste**. The JRC report addresses the two critical issues already discussed at the last TAC meeting, namely the content of physical impurities and the non-hazardousness. For the physical impurities, the limit set at 2% is considered by some stakeholders as too strict, and they would be in favour of less stringent threshold, e.g. 5-6%. The 2% limit implies that a high percentage of agglomerates from mixed plastics, used widely to manufacture plastic lumber (e.g. for outdoor furniture) would not cease to be waste, and only the articles made of it would be categorized as products. By keeping the

strict limit, the regulation would send the signal that plastic waste shall be cleaned for impurities and these impurities shall be treated appropriately as waste, and not remain embedded in plastic lumber.

COM further explained that two tiers are defined: (1) a 2% impurities level which is essentially not an issue for homogeneous waste plastic streams and covers about 85% of the waste plastic market; and (2) > 2% which would also concern plastics of mixed origin and derivatives (agglomerates), not further refined for impurity removal, and used for plastic lumber applications (~15% of the market). In the latter case it would be necessary to introduce a clause whereby that 15% share shall be mechanically recycled and not landfilled or incinerated. Depending on what the political angle of the policy on waste is, a choice can be made between having only the first strict tier, or going for a more lenient two-tier approach.

As regards the issue of hazardousness discussed in the last TAC, COM explained that the issue has been clarified to stakeholders and is now more accepted. There are several mechanisms for testing for hazardousness in plastics. If the hazardous substances are embedded in the material, do not migrate and their levels are comparable with the virgin materials they intend to replace such substances are not considered as hazardous.

COM asked for written comments on the JRC's report on plastics EoW by 10.12.2014.

4. VOTE ON THE COMMISSION DIRECTIVE ON A CLIMATE CORRECTIVE FACTOR APPLICABLE TO THE R1 FORMULA REFERRED TO IN ANNEX II TO DIRECTIVE 2008/98/EC.

The Commission accepted the proposal of one MS sent by email on 14 November 2014 in which it was proposed to replace in Article 2 of the draft Commission Directive the transposition date of 1 September 2015 by the formula e.g. "by the last day of the twelfth month after entry into force, at the latest".

The double majority was reached with 21 MS representing more than 65% population in favour. Accordingly, the Committee issued a positive opinion on the draft Commission Directive.

5. LEGAL COMPLIANCE PROMOTION INITIATIVES

COM stated that implementation of EU waste legislation by MS remains a major challenge. Moreover, recent reports (Eurostat and EEA) confirm that significant differences between MS in terms of implementing EU waste legislation continue to exist, in particular in applying the EU waste hierarchy and achieving the legally binding, quantified preparation for re-use and recycling targets in the WFD. Thus, COM continues to put a great emphasis in the legal compliance promotion initiatives in order to raise awareness and trigger better implementation records where needed.

Studies on hazardous waste, separate collection and construction and demolition waste

COM recently launched a study to improve **hazardous waste implementation** based on an assessment of MS' performance. This follows in broad lines the structure of the compliance-promotion project undertaken on municipal waste, i.e. identifying the main problems encountered in the selected MS (in the form of 'factsheets') and at making recommendations to address them (in the form of 'roadmaps'). The results of this study will be put in scoreboards to reflect the performance of EU 28 MS. The contractors chosen for this study are Bipro. The contract was signed on 8 October 2014 and the study will run for 12 months.

Separate collection of at least glass, paper, plastic and metal becomes a legal obligation at the beginning of 2015. COM will launch a study looking into separate collection systems in the 28 capitals cities of the European Union. Separate collection is a key obligation of the WFD, crucial for improving the MS' overall performance on waste management and achievement of targets. The study will also identify best practices.

In addition, a similar study focussing on **construction and demolition waste (CDW)** shall be conducted. The study aims at analysing the situation in the MS, including the distance to the 70 % recycling and material recovery target to be achieved by the MS by 2020. The study will also identify best practices and providing concise case studies. Based on this analysis of success stories, recommendations will be formulated to address the deficiencies observed in those MS where management of CDW may not be fully satisfactory.

2° compliance promotion round of seminars in selected Member States

COM explained that it continues with the compliance promotion initiative on municipal waste as the first wave (2012) was considered as a successful and an useful learning experience. Many of the lessons learnt served to inform important policy initiatives (e.g. the assessment of the waste management plans, the targets review, EU Cohesion funding for the period 2014-2020).

In 2015, the Commission will organise country visits to seven further countries and will develop related roadmaps of recommendations for these countries.

As regards the first wave of countries visited in 2012, the Commission envisages setting up a systematic and regular follow-up of the progress in the implementation of the roadmaps by the Member States concerned. Furthermore, the Commission invited the delegations to share their experience and suggestions for improvement following the first exercise.

6. INFRINGEMENTS – STATE OF PLAY

COM provided statistics regarding **on-going infringements and investigations** in the waste sector:

DG ENV currently has 407 open infringements of which 148 are in the Waste sector so approx. 36%. DG ENV currently has 415 open EU Pilot cases of which 75 are in the Waste sector so approx. 18%.

As regards WFD non-conformity cases, currently there are 18 EU pilots and 3 infringement cases. 7 EU pilots investigations are now formally closed.

COM explained that COM is also in the process of assessing the waste management plans (WMPs) adopted at national or regional levels in selected MS. This links to the parallel screening of the fulfilment of a so called "ex ante conditionality" on waste for the use of regional funds in the next programming period 2014-2020. As part of this project, COM has identified several cases where of breach of article 30 of the WFD consisting of a lack of a WMP or it being completely outdated. As a result 14 EU pilots have been open on outdated waste management plans and lack of waste prevention programmes.

Waste ex-ante conditionalities

COM explained that over the last months the COM services have assessed a great number of Partnership Agreement and Operational Programmes (Environment) pertaining to MS which plan to invest in new waste management capacity. The proposed Multiannual Financial Framework (MFF) 2014-2020 should ensure a more transparent and systematic application of so called ex-ante conditionalities (EAC) in the area of waste management – a novelty for this financing period. In practice, this should mean that investment of EU money in waste management projects is conditional to the fulfilment of certain ex-ante conditions, including the development of Waste Management Plans in accordance with the WFD.

Unfortunately in a number of cases (8 MS) COM is not yet satisfied with the fulfilment of all or some EAC depending on the MS concerned. As a result an action plan has been or will be requested from the MS. The action plan must be able to bring the country in compliance by the deadline 31.12.2016 or otherwise the significant prejudice clause could be invoked leading to the suspension of EU payments.

COM requested those MS investing in waste projects to take into consideration: (1) where applicable, action plans issued by EAC-non-compliant MS must be realistic and feasible within the given timelines. A firm monitoring system will be established in order to avert problems; and (2) new waste management capacity to be proposed in the OP must be fully in line with the waste hierarchy and for major projects validated under a cost benefit analysis as it is explicitly required, among other elements, as a basis for decision making on such projects.

7. INFORMATION POINT

Study on HP14 (eco-toxicity)

COM explained that H 14 (eco-toxicity) is a hazardous property which is particularly problematic. First of all, it is difficult to assess: the formulas that are applied in CLP are complicated and that an agreement on where to draw the border between ecotoxic and non-ecotoxic has still to be reached at EU level. In addition, ecotoxicity is unevenly applied as a criterion for classifying waste – the current definition is not very precise.

For of these reasons, introducing a new definition of ecotoxicity may have significant impacts on the amount of waste to be classified as hazardous. In view of these concerns, COM has come to the conclusion that further analysis is needed. We have decided not to amend H14 in the review of Annex III of WFD which has been recently undertaken (voted in the List of Waste TAC of 5 June 2014). Instead, COM launched a study that will analyse the options that have been proposed by the working group members to assess H 14, as well as their potential impacts on a number of important waste streams. Based on the results of the study, if appropriate, COM will prepare an amendment of the ecotoxic property in 2015.

The contractors chosen for this study are Bio by Deloitte and Ineris. The contract was signed on 19 September 2014 and will run for nine months. The kick off meeting took place on 17 October 2014.

Study on waste classification guidelines

COM explained that the legislation concerning waste classification had recently been reviewed. Those involved in the production, assessment, management and regulation of hazardous waste are in need of a comprehensive reference manual which provides technical guidance on the assessment and classification of hazardous waste. The objective of this study is to assist the COM in the development of such a guidance document, based on a thorough analysis of the legislative framework, the relevant literature and, if needed, field research, and contributions from experts.

The guidance will include explanations and examples which could not be included in legislation. We will certainly count on your participation and feedback to render this document as user-friendly as possible. The tendering procedure for this study is on-going.

Waste statistics and current work of the EEA

COM explained that the EEA has appointed a new topic centre led by VITO as from 1st July of this year. The main on-going work relates to the development of the European model on municipal waste generation and treatment, the evaluation of the waste prevention programmes and the update of the country fiches on municipal waste management. COM envisaged intensified future work with Eurostat in view of the Waste Target Review e.g. reporting and calculation methods.

8. ANY OTHER BUSINESS

Codification of end-of-life ships in the EU waste legislation

COM explained that end-of-life ships are not listed per se in either the WFD Annex III or the European List of Waste (Commission Decision 2000/532/EC). However, materials extracted during the ship recycling process (e.g. asbestos, various WEEE, etc) are listed.

What this means in practice is that national, regional and local environmental agencies within the EU put different demands on EU-based ship recyclers as far as authorizations to operate are concerned (as "waste managers" or as "waste producers"). These differing approaches to the qualification of the ship recycling process are all the more problematic when two neighbouring local or regional environmental authorities impose different requirements on neighbouring facilities.

The Commission is of the opinion that end-of-life ships are regarded as waste and as a result the ship recycling facilities are waste management facilities which in turn generated waste that needs to be sent to other facilities for treatment or disposal.

When it comes to the future listing of EU-based facilities compliant with the requirements of article 13 of the Ship Recycling Regulation (SRR), European ship recyclers asked by their local or regional authorities to comply with requirements set on both waste "managers" and "producers" are very concerned that a "blanket vetting" by the national administration, in the form of all-out listing on the EU List, will set in stone the competitiveness gap between the different ship recycling facilities. They demand that ships are added to the list of hazardous waste and given a code on the next opportunity so as to impose a regulatory level-playing field to ship recyclers across Europe.

Malagrotta Court case

COM explained this recent EU Court's judgment regarding the failure on the part of IT to comply with the WFD and LFD in relation to the waste disposed of in the Malagrotta landfill as well as in other Lazio landfills. In those cases municipal waste was only requested to be crushed and/or shredded prior to landfilling.

The Court concluded that the reading of the WFD and the LFD requires MS to take all the necessary treatment measures that would allow reducing as much as possible the negative effects of that waste on the environment and human health. The Court found that Italy failed to comply with the Directives in Rome and Lazio regions because the municipal waste was not subject to appropriate treatment that includes proper sorting of the different waste fractions and some kind of stabilization of the organic fraction contained in the waste. The Court also found that Italy has not ensured (lack of sufficient MBT capacity) that the Lazio region has an integrated and adequate network of waste disposal installations for mixed municipal waste taking into account best available techniques.

LIFE Integrated Waste Programmes

COM informed that under the LIFE Programmes there are new funding possibilities for MS to help them with their waste management plans and waste prevention programmes. COM will provide MS with more specific information in due course.

Following this point COM closed the meeting.
