

From : Max de Vries
Date : 14 January 2010
Concerns : Minutes of the meeting of the European Commission, FIR and BRBS Recycling 13 January 2010

Present: Mr. A. Versmann European Commission
Mr. G. Wolff European Commission
Mr. H. Blokland BRBS Recycling
Mr. G. Cuperus FIR
Mr. P. Broere BRBS Recycling
Mr. M. de Vries BRBS Recycling

It is appreciated highly by FIR and BRBS Recycling that Mr. Versmann and Mr. Wolff were able to receive them at such a short term. After an introduction by Hans Blokland, an agenda sent by BRBS Recycling and FIR is followed. A summary of the meeting is given below.

1. End-of-waste criteria

- Mr. Versmann points out that the new WFD does not aim to make the issue of "end-of-waste" more complex or more stringent for Member States as compared to the former WFD.
- For those wastes for which the European Commission has not (yet) defined end-of-waste criteria, a Member States may define its own criteria. This applies to recycled aggregates as well, both under the new and former WFD.

NB. In the UK recycled aggregates are not considered to constitute waste when the requirements of the "Waste Protocol" are met. This approach has been notified by the Commission and Member States, *I am not aware of an UK notification on end-of-waste criteria for aggregates. I looked up the Commissions website with the key word "aggregates UK" and didn't find such a notification ([As soon as new criteria are defined by the Commission, Member States are obliged to adopt these.](http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?sCountry=UK&bTitle=Faise&)*

- The "case by case" approach must be understood as a solution applying to the specific situation of one single producer. It may however also be understood as an approach applying to a general waste stream, such as recycled aggregates. *Only with such an approach the requirement in Art 6(4) of the Waste Framework Directive for the Member States to notify end-of-waste decisions in accordance with Directive 98/43/EC on technical standards and regulations makes sense.* This approach, whereby a Member State defines general criteria, prefers above an individual approach per producer.
- The sentence in art.6.1 in the WFD: "when it has undergone a recovery, including recycling, operation" does not, according to the European Commission, mean that a substance must have been applied before that substance ceases to be a waste. A waste material that undergoes a physical recycling process, meets the criteria for end-of-waste and is being monitored, ceases to be waste. If recycled aggregates, after sorting and crushing, fulfill the criteria developed in accordance with the conditions of art 6.1 and the quality is monitored, it will cease to be a waste.

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~~The European Commission will develop a guidance paper to assist Member States in the approach of developing national criteria.~~ The approach of national criteria will possibly also be explained in a list of FAQ's.

2. Backfilling

The European Commission states:

- That the target of 70% recycling/recovery for C&DW does not mean that Member States should abstain from other measures to implement ~~has no direct link to~~ the Waste Hierarchy. The Waste Hierarchy is a basis for Member States to develop waste management policy. For backfilling as recovery, definition criteria are yet to be developed. Landscaping should not be understood as backfilling when there is not substitution of primary raw material.
- At the moment the European Commission is developing a definition criteria for backfilling. An important criterion is that backfilling must include genuine replacement of primary resources.

The Commission intends to develop a decision on guidance on how recovery target for C&DW has to be calculated ~~must take place~~. Considering the differences throughout Europe with regard to the recycling of C&DW, Europe can not put additional requirements (for instance on a ratio between recycling and recovery). Monitoring of the Waste Hierarchy and the 70% target will still be a problematic issue for the Commission.

As for the review of the WFD in 2014 the Commission will welcome the input of ideas.

The following issues were discussed:

- Prior to backfilling, C&DW would need to undergo pre-treatment.
- Landscaping should not be included in "backfilling"
- The 70% target could include a ratio ~~between~~ recovery and recycling.
- Considering the different state of recycling in Member States, different targets might exist between ~~be set for different~~ Member States.

3. R1 status of incineration

The European Commission has not finalised works on a guidance ~~yet made up its mind~~ about this. Calculation on "gross" basis would allow more incinerators to be classified as energy recovery plants ~~be a disadvantage for recycling~~, as the Commission confirms. The Netherlands have so far used the "net" approach. BRBS Recycling thinks that the Waste Hierarchy should somehow be taken into mind, when defining the R1 approach.

OVAM in Belgium has calculated several scenarios.

BRBS Recycling and FIR consider that the recycling industry is poorly represented in the expert group working on the R1 formula, whereas it is recognised that initially direct stakeholders needed to be invited. BRBS Recycling is willing to pay a contribution to the expert group.

4. REACH

BRBS Recycling and FIR ask DG_Environment to support the view which has been put forward by DG_Enterprise in 2008. According to DG_Enterprise, recycled aggregates derived from C&DW constitute an article. Recycled aggregates as a product therefore are exempted from the requirements of REACH. In a recent guidance document, ECHA has also described this situation. BRBS Recycling and FIR point out that specific reference to CEN standards EN13242 and EN12620 should be made in the guidance document. This response is also brought forward to ECHA by FIR and EPRA.

5. The 'waste hierarchy'

The Waste Hierarchy as seen by the Commission, must be used as a basis for legislative and policy decisions (such as waste management plans) in waste management in Member States and not so much as a principle for individual cases of waste management. Member States should however decide in individual cases on the best

option for waste management, on the basis of the Waste Hierarchy and on local circumstances.

The Commission will provide for guidance for Member States concerning LCA methodologies and concerning the relation between LCA and Waste Hierarchy. Guidance concerning C&DW would be helpful in that sense. For BRBS Recycling a better use of the Waste Hierarchy is important in order to realise the preference to recycling above backfilling and incineration

6. CEN Committees concerning recycled aggregates

Although development of CEN standards is primarily of interest to market players, there is also interest for the Commission. Whereas in the Netherlands primary and secondary materials need to fulfil the same requirements, this will be not the case on a European level as a result of the implementation of ER3 requirements in the European standards. This is especially the case for environmental aspects. BRBS Recycling and FIR will supply Mr. Versmann and Mr. Wolff with examples showing that secondary materials are placed at a disadvantage because of (draft) CEN standards. If secondary materials need to fulfil more requirements than primary materials, they will not be used due to administrative burden and higher costs.

Mr. Versmann has some suggestions to improve the role of environmental aspects in standardisation. ECOS for instance might be a coalition partner to talk to.

7. Development of a recycling network

The European Commission acknowledged the importance of a European recycling network that aims at the exchange of (technical, legislative and organisational) knowledge and experience. Some issues that were touched upon:

- the EU Life program will open again in April 2010
- in summer 2010 an [European conference on environment that may feature the issues of recycling markets and technologies](#)~~international recycling congress~~ will be held in Madrid. Here the issue of a recycling network might be addressed.
- Recycling is one of the Lead Markets according to the Initiative of DG_Enterprise. Mr. [Jacob-Jakub Wejchert](#) is the contact person.
- The European Waste Strategy will be reviewed next year. This year a workshop will be organised.

FIR asks Mr. Versmann to be kept updated about these events and to send information.

BRBS Recycling and FIR thank Mr. Versmann and Mr. Wolff for their availability and for the pleasant conversation.