

EU Circular Economy Package: Waste legislation

Four priorities to secure the value of European metals

Introduction

The European metals industry welcomes the European Commission's Circular Economy proposals, which provide a strong basis to promote the circular management of Europe's materials.

Recyclable again and again, metals are essential to move to a resource- and energy- efficient society. However, too much of Europe's metals and metals-containing products are still poorly collected and treated. In 2014, only 1/3 of EU electronic waste was properly recycled, while €4.3 billion of EU base metals scrap was exported without guarantee of quality treatment.

The Circular Economy package will begin to address this situation, and we call on both the European Parliament and Council to confirm and strengthen the Commission's waste legislation proposals. Several measures can help to ensure that valuable materials embedded in products are recovered and returned to the EU economy.

Eurometaux has identified four priorities for the waste legislative proposals to support a true circular economy:

- 1. Prioritise material recovery, to ensure that materials embedded in products are recovered and recycled.**
 - Support the proposal to measure recycling targets at the input into the "final recycling process".
 - Implement minimum requirements for Extended Producer Responsibility (EPR) schemes and a modulated fee for recyclable and reusable products, while clarifying that EPR schemes should cover the entire cost of waste management, including the final recycling process.
- 2. Support high quality recycling processes, to establish level playing field conditions and ensure high recovery of valuable materials.**
 - Define what is meant by "high quality recycling", as well as the requirement for exported waste to be recycled under "equivalent conditions" to count towards recycling targets. To ensure high quality recycling through quality process/treatment and not only quality standards for secondary raw materials, a reference can be made to process standards for key waste streams.
 - Ensure that output fractions from the recycling process needing further reprocessing, including end-of-waste fractions, are treated through a quality process
- 3. Establish ambitious and effective recycling targets, incentivising the recovery of valuable materials embedded in waste, end-of-life products and by-products.**
 - Clarify the scope of the waste framework directive and the potential implications for WEEE and batteries (no implication besides statistical ones)
 - Support the Commission's recognition that metal recovered from incineration ashes should count towards attainment of recycling targets
 - Set a separate target for reuse and recycling of construction and demolition waste, while clarifying that backfilling is not recycling
 - Adopt an ambitious target to reduce the amount of recyclable waste landfilled, thereby incentivising tangible progress in recycling rates
- 4. Ensure harmonised implementation of waste policies, so as to facilitate the shipments of waste for recycling within Europe.**
 - Harmonise the definition of by-products, classification of waste and waste codes across the EU, to facilitate the movement of waste for high quality recycling

To ensure these four priorities are transferred into concrete deliverables, we also provide a set of amendment proposals:

Our 14 amendment proposals

Waste legislative proposals

Waste Framework Directive (WFD) – Packaging and packaging waste directive (PPWD) and Landfill directive (LD) – WEEE Directive (WEEE)

1. WFD - Art. 3.17a and Art.11a	
Definition of “final recycling process” and point of calculation of the recycling rate	
<p><u>Issue</u></p> <p>Circular Economy is about ensuring that the valuable materials embedded in waste and end-of-life products can be reinjected into new products.</p> <p>The proposed definition of “final recycling” rightly defines the final recycling step after mechanical sorting operations.</p> <p>The reference to the input into this final recycling step as the point of measurement for the recycling rates will duly steer the recovery of valuable materials from waste and end-of-life products and not simply their collection and pre-treatment.</p>	<p><u>Proposal</u></p> <p>Clarify that the 3 conditions mentioned in the definition are collectively met and implemented.</p> <p><i>Final recycling process means the recycling process which begins when no further mechanical sorting operation is needed <u>and</u> waste materials enter a production process <u>and</u> are effectively reprocessed into products, materials or substances.</i></p>
2. WFD - Art. 3.17b	
Definition of “backfilling”	
<p><u>Issue</u></p> <p>The proposed definition for “backfilling” duly clarifies that “backfilling” is not “recycling”. We would however suggest to ensure that landfilling cannot be interpreted as “backfilling”. We also suggest to delete the word “construction” as waste (e.g. sludges, slags) used in construction should not be considered as backfilling.</p>	<p><u>Proposal</u></p> <p>Proposed amendment: “Backfilling means any recovery operation where suitable waste is used for reclamation purposes in excavated areas or for engineering purposes in landscaping or <u>construction</u> instead of other non- waste materials which would otherwise have been used for that purpose. <u>It does not include reclamation and remediation operations in excavated or dismissed mining areas</u>”.</p>
3. WFD - Art. 6.1	
End-of-waste	
<p><u>Issue</u></p> <p>As long as the output fractions from the recycling process need further reprocessing – whether they have achieved the end-of-waste status or not – quality treatment should be ensured, including exported fractions outside of the EU. Without any guarantee in this direction, the objective of the end-of-waste status to facilitate sound treatment will not be achieved.</p> <p>In this context and to avoid discrepancies the new definition of “final recycling process” has to be taken on board in Art. 6 to guarantee that all three</p>	<p><u>Proposal</u></p> <p><i>Member States shall ensure that waste which has undergone a recovery operation, <u>does not require any further mechanical sorting operation and enters a production process and is effectively reprocessed into products, materials or substances</u> has to be considered to have ceased to be waste if it complies with the following conditions:</i></p> <p>...</p>

<p>steps – no further mechanical sorting operation – waste materials enter a production process - effective reprocessing into products, materials or substances have to be met cumulatively to generate end-of-waste-materials. In addition, Eurometaux strongly recommends to secure regular monitoring of end-of-waste export flows and to avoid the proliferation of national end-of-waste status which would trigger confusion and challenges to control the validity of the status.</p>	
<p>4. WFD - Art. 7. Par 6 point a. List of Waste</p>	
<p><u>Issue</u></p> <p>The European Waste catalogue classifies different waste streams as hazardous and non-hazardous waste, conditioning business operations of industries and potentially limiting recovery and recycling opportunities. Any future modification to the list should work towards a better performing waste management in which the recycling opportunities are fostered and in which the hazardous status to a waste stream should be given for instance using a full risk based approach instead of a pure hazard based one.</p>	<p><u>Proposal</u></p> <p>(a) <i>In paragraph 1, the first sentence is replaced by the following:</i> <i>'1. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to establish the list of waste <u>and to foster recovery and recycling opportunities in waste management via the adoption of full risk based approaches.</u> ';</i></p>
<p>5. WFD - Art. 7. Par 6 point b. List of Waste</p>	
<p><u>Issue</u></p> <p>Eurometaux strongly believes that classification of waste should be harmonised throughout the EU Member States so as to facilitate their harmonised identification and transboundary movement for treatment.</p>	<p><u>Proposal</u></p> <p><u>The Commission shall set up a harmonisation committee to facilitate harmonisation of classification across the EU.</u></p>
<p>6. WFD - Art. 8. Par 7 point b. EPR</p>	
<p><u>Issue</u></p> <p>Eco-design should incentivize multiple recycling.</p>	<p><u>Proposal</u></p> <p><i>The second sentence of paragraph 2 is replaced by the following:</i> <i>'Such measures may shall encourage, inter alia, the development, production and marketing of products that are suitable for multiple use, that are technically durable and that are, after having become waste, suitable for preparation for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures should take into account the impact of products throughout their <u>full</u> life cycle <u>and through multiple life cycles when re-use is considered.</u> <u>The measures shall also incentivise manufacturers to use materials that do not change their inherent properties during use and after the recycling process.</u></i></p>
<p>7. WFD – Art. 8a 4.a Extended Producer Responsibility</p>	

<p><u>Issue</u></p> <p>The requirement for the EPR contributions to cover the entire cost of waste management is not consistent with the definition of recycling, nor in line with the objective to recover valuable materials from waste.</p> <p>Hence, we would suggest replacing the word “treatment” by “final recycling” so as to duly incentivise the recovery of materials from waste and not just sorting.</p>	<p><u>Proposal</u></p> <p><i>MS shall take the necessary measures to ensure that the financial contributions paid by the producer to comply with its EPR obligations:</i></p> <p><i>(a) cover the entire cost of waste management for the products it puts on the Union market, including :</i></p> <p><i>a. costs of separate collection, sorting, treatment operations <u>final recycling</u> required to meet the waste management targets, ...</i></p>
<p>8. WFD - Art. 11.1-2. Reuse and recycling targets for municipal waste – high quality recycling</p>	
<p><u>Issue</u></p> <p>In the spirit of ensuring that as much valuable material is recovered as economically and technically viable and possible, “high quality recycling” and “quality standards” should be promoted.</p> <p>It is however desirable to clarify what “quality” means, namely the quality/performance of the recycling treatment process (and not only the output material (recyclate)).</p> <p>Such clarification will support level playing field conditions for quality treatment processes and plants throughout Europe, and worldwide/globally.</p>	<p><u>Proposal</u></p> <p><i>11. 1 – par 2. ... MS shall take measures to promote high quality recycling, and to this end, shall set up separate collection of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors and to attain the targets set out in par.2”. <u>The Commission will define “quality recycling” by reference to standards for given waste streams, as appropriate.</u></i></p>
<p>9. WFD – Art. 11.2.a and b Recycling targets for construction & demolition waste</p>	
<p><u>Issue</u></p> <p>It is regrettable that the construction & demolition targets cover both recycling and backfilling, while the definition of recycling excludes backfilling.</p> <p>Backfilling is a permanent placement of the material on particular sites and is not intended to be returned to the economic material cycle.</p>	<p><u>Proposal</u></p> <p><i>EM recommends setting a specific target for “reuse and recycling” of construction materials, i.e. clearly excluding backfilling. As there is no legal basis for this, EM proposes including a revision clause aiming at setting such a specific target in the future.</i></p>
<p>10. WFD – Art. 11a.8. and PPWD Art 6 Calculation of recycling targets - Equivalent conditions for exports</p>	
<p><u>Issue</u></p> <p>The article requires that waste exported out of the Union for re-use or recycling may only count towards attainment of the targets if the waste is treated in conditions that are equivalent to the EU requirements.</p> <p>We support the strive to ensure equal footing for EU and non-EU recyclers, but feel that the enforcement of the requirement may be very challenging if “equivalent conditions” are not duly defined (as required in the WEEE directive and done through delegated acts).</p> <p>We therefore call for a clear definition of “equivalent conditions” through delegated acts. Eurometaux also strongly supports the setting up of mandatory</p>	<p><u>Proposal</u></p> <p><i>Waste exported from the Union for preparation for reuse or recycling shall only count towards attainment of the targets laid down in Articles 11(2) and (3) by the MS in which it was collected if the requirements of ar. 4 are met, and if, in accordance with Regulation (EC) 101 31 2006, the exporter can prove that the shipment of waste complies with the requirements of that regulation and that the treatment of waste outside the Union took place in conditions that are equivalent to the requirements of the relevant EU legislation. <u>The Commission shall adopt Delegated Acts to define what „equivalent conditions“ means in reference to existing standards covering the full recycling chain.</u></i></p>

certification schemes for certain waste streams that are subject to high illegal exports due to their value and complexity (i.e. WEEE and portable batteries)	
11. WFD - Art. 11a.5 and 6 Calculation of recycling targets – bottom ashes	
<p><u>Issue</u></p> <p>Eurometaux welcomes the recognition of the recovery of metals from incineration bottom ashes as counting towards attainment of the recycling targets.</p> <p>We also welcome the adoption of delegated acts to establish a common methodology to calculate this.</p> <p>There are already clear and recognized standards for the various types of metal scrap, including for metal scrap recovered from bottom ashes.</p>	<p><u>Proposal</u></p> <p>5. For the purpose of calculating whether the targets laid down in Article 1(2)(c) and (d) and Article 11(3) have been achieved MS may take into account the recycling of metals that takes place in conjunction with incineration in proportion to the share of the municipal waste incinerated provided that the recycled metals meet certain quality requirements.</p> <p>6. In order to ensure harmonised conditions for the application of par.5, the Commission shall adopt delegated acts in accordance with article 38a establishing a common methodology for the calculation of the weight of the metals that have been recycled in conjunction with incineration, including the quality criteria for the recycled metals.</p> <p>We recommend that the Delegated Acts refer to the existing EoW (end-of-waste) criteria which recommend to apply a max. 5% impurity level for the metal fraction derived from the incineration bottom ash treatment process</p>
12. WFD – Art. 37 Reporting and reviewing	
<p><u>Issue</u></p> <p>Only part of the streams are collected by EPR schemes and hence it is important to call for the reporting to cover both EPR flows and non-EPR flows (statistical hub for all).</p>	<p><u>Proposal</u></p> <p>1. Every three years, Member States shall inform the Commission of the implementation of this Directive by submitting a sectoral report in an electronic form. This report shall also contain information on the management of waste oil and on the progress achieved in the implementation of the waste prevention programmes and, as appropriate, information on measures as foreseen by Article 8 on extended producer responsibility. <u>The reporting shall cover both EPR flows and non-EPR flows. To this end, MS will establish a statistical hub for both flows</u></p>
13. WEEE – Art. 16.5.a Registration, information and reporting	
<p><u>Issue</u></p> <p>The amendments aim at administrative simplification and hence are relevant for Member States. However, it is important to call for the reporting to cover both EPR flows and non-EPR flows (statistical hub for all).</p>	<p><u>Proposal</u></p> <p>a. Member States shall report the data concerning the implementation of Article 16(4) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. <u>The reporting shall cover both EPR flows and non-EPR flows. To this end, MS will establish a</u></p>



	<i>statistical hub for both flows.</i>
14. Landfill directive – Art. 5.5 Amount of waste landfilled	
<u>Issue</u> Eurometaux welcomes the objective to reduce and even eliminate the landfilling of recyclable waste. As always, enforcement at MS level will be crucial to ensure that valuable materials embedded in waste are properly diverted from landfilling and are recycled.	<u>Proposal</u> The basis for the 10% that can be landfilled should be better clarified.