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**A6-0162/2008**

18.4.2008

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a directive of the European Parliament and of the Council on waste and repealing certain Directives (11406/4/2007 – C6-0056/2008 – 2005/0281(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Caroline Jackson

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the Council common position for adopting a directive of the European Parliament and of the Council on waste and repealing certain Directives  
(11406/4/2007 – C6-0056/2008 – 2005/0281(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (11406/4/2007 – C6-0056/2008),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2005)0667),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 62 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0162/2008),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and Commission.

### **Amendment 1**

#### **Council common position Recital 1**

##### *Council common position*

(1) Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste establishes the legislative framework for the handling of waste in the Community. It defines key concepts such as waste, recovery and disposal and puts in place the essential requirements for the management of waste, notably an obligation for an establishment or undertaking carrying out waste management operations to have a permit or to be registered and an obligation for the

##### *Amendment*

(1) Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste establishes the legislative framework for the handling of waste in the Community. It defines key concepts such as waste, recovery and disposal and puts in place the essential requirements for the management of waste, notably an obligation for an establishment or undertaking carrying out waste management operations to have a permit or to be registered and an obligation for the

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<sup>1</sup> OJ C 287 E, 29.11.2007, p. 136.

Member States to draw up waste management plans. It also establishes major principles such as an obligation to handle waste in a way that does not have a negative impact on the environment and human health, ***an encouragement to apply*** the waste hierarchy and, in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste came.

Member States to draw up waste management plans. It also establishes major principles such as an obligation to handle waste in a way that does not have a negative impact on the environment and human health, the waste hierarchy and, in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste came.

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure)*

#### *Justification*

*Complementary to amendment 21 by the rapporteur which establishes the waste hierarchy as a general rule. Consequently, the directive does not just "encourage" Member States to apply the waste hierarchy.*

## **Amendment 2**

### **Council common position**

#### **Recital 1 a (new)**

*Council common position*

*Amendment*

***(1a) The first objective of any waste policy should be to minimise the negative effects of the generation and management of waste on human health and the environment. Waste legislation should also aim at reducing the use of resources, and favour the practical application of the waste hierarchy.***

#### *Justification*

*Amendment adopted by Parliament at the first reading (amendment 1). Ideally, this should come first in the list of recitals since it gives a useful overview of what the Parliament considers to be the EU's key objectives in waste management.*

## **Amendment 3**

**Council common position**  
**Recital 1 b (new)**

*Council common position*

*Amendment*

***(1b) In its Resolution of 24 February 1997 on a Community strategy for waste management<sup>1</sup>, the Council confirmed that waste prevention should be the first priority of waste management, and that re-use and material recycling should be preferred to energy recovery of waste, where and insofar as they are the best ecological options.***

<sup>1</sup> OJ C 76, 11.3.1997, p. 1.

*Justification*

*Amendment agreed by Parliament at first reading (amendment 1). It is important to include this reference to the history of the waste hierarchy in order that the recital may give a complete background to this proposal.*

**Amendment 4**

**Council common position**  
**Recital 2**

*Council common position*

*Amendment*

(2) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme calls for the development or revision of the legislation on waste, including a clarification of the distinction between waste and non-waste, and for the development of measures regarding waste prevention.

(2) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme calls for the development or revision of the legislation on waste, including a clarification of the distinction between waste and non-waste, and for the development of measures regarding waste prevention, ***including the setting of targets.***

*Justification*

*A reference to the Parliament's inclusion of targets is needed in the recitals to for the sake of completeness.*

## Amendment 5

### Council common position Recital 8

#### *Council common position*

(8) Effective and consistent rules on waste treatment should be applied, subject to certain exceptions, to movable **property** which the holder discards or intends or is required to discard.

#### *Amendment*

(8) Effective and consistent rules on waste treatment should be applied, subject to certain exceptions, to movable **substances and objects** which the holder discards or intends or is required to discard.

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure)*

#### *Justification*

*The term "property" is potentially misleading, as it seems to suggest that rules only apply to waste that belong to the person discarding it. However, as it is quite possible that someone might discard something s/he does not own, the term "property" should be replaced with the terms used in the definition of "waste".*

## Amendment 6

### Council common position Recital 12

#### *Council common position*

***(12) The classification of waste as hazardous waste should be based, inter-alia, on the Community legislation on chemicals, in particular concerning the classification of preparations as hazardous, including concentration limit values used for that purpose. Furthermore, it is necessary to maintain the system by which waste and hazardous waste have been classified in accordance with the list of the types of waste as last established by Commission Decision 2000/532/EC, in order to encourage a harmonised classification of waste and ensure the harmonised determination of hazardous waste within the Community.***

#### *Amendment*

***(12) Hazardous wastes are qualified by hazard and risk criteria. As a result, they need to be regulated under strict specifications in order to prevent or limit, as far as possible, negative effects due to inappropriate management which may affect the environment and give rise to risks to human health and safety. Because of their hazardous properties, hazardous wastes need an appropriate management which involves specific and adapted collection and treatment techniques, particular controls and dedicated waste traceability modalities. All hazardous waste operators need to have adequate qualifications and training.***

*(Amendment 11 adopted at First Reading)*



### *Justification*

*As the WFD will repeal the Hazardous Waste Directive, it is particularly important to ensure that the hazardous waste management sector is adequately taken into account in the text of the Directive.*

## **Amendment 7**

### **Council common position Recital 17**

#### *Council common position*

(17) The definitions of recovery and disposal need to be modified in order to ensure a clear distinction between the two concepts, based on a genuine difference in environmental impact through the substitution of natural resources in the economy and recognising the potential benefits to the environment and human health of using waste as a resource. In addition, ***guidelines may*** be developed in order to clarify cases where this distinction is difficult to apply in practice or where the classification of the activity as recovery does not match the real environmental impact of the operation.

#### *Amendment*

(17) The definitions of recovery and disposal need to be modified in order to ensure a clear distinction between the two concepts, based on a genuine difference in environmental impact through the substitution of natural resources in the economy and recognising the potential benefits to the environment and human health of using waste as a resource. In addition, ***criteria should*** be developed in order to clarify cases where this distinction is difficult to apply in practice or where the classification of the activity as recovery does not match the real environmental impact of the operation.

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure, and in line with amendment 38/108/157/140/141 from first reading)*

### *Justification*

*Linked to new amendment to Article 8(2) by the same authors. In case efficiency criteria are set for waste incineration in this directive, the same should be done for other recovery operations to better distinguish true recovery operations from sham recovery operations. As such criteria would be essential elements, they should be set in co-decision.*

## **Amendment 8**

### **Council common position Recital 20**

#### *Council common position*

(20) There should be no confusion between

#### *Amendment*

(20) There should be no confusion between

the various aspects of the waste definition, and appropriate procedures should be applied, ***where necessary, to by-products that are not waste, on the one hand, or to waste that ceases to be waste, on the other hand.*** In order to specify certain aspects of the definition of waste, this Directive should clarify:

– ***when substances or objects resulting from a production process not primarily aimed at producing such substances or objects are by-products and not waste. The decision that a substance is not waste can be taken only on the basis of a coordinated approach, to be regularly updated, and where this is consistent with the protection of the environment and human health. If the use of a by-product is allowed under an environmental licence or general environmental rules, this can be used by Member States as a tool to decide that no overall adverse environmental or human health impacts are expected to occur, and***

– when certain waste ceases to be waste, laying down end-of-waste criteria that provide a high level of environmental protection and an environmental and economic benefit; possible categories of waste for which "end-of-waste" specifications and criteria should be developed are, among others, construction and demolition waste, some ashes and slags, scrap metals, compost, waste paper and glass. ***For the purposes of reaching end-of-waste status, a recovery operation***

the various aspects of the waste definition, and appropriate procedures should be applied to waste that ceases to be waste. In order to specify certain aspects of the definition of waste, this Directive should clarify when certain waste ceases to be waste, laying down end-of-waste criteria that provide a high level of environmental protection and an environmental and economic benefit; possible categories of waste for which "end-of-waste" specifications and criteria should be developed are, among others, construction and demolition waste, some ashes and slags, scrap metals, compost, waste paper and glass. ***The concept of waste that ceases to be waste should not apply for the purpose of trans-boundary shipments to third countries.***

***may be as simple as the checking of waste to verify that it fulfils the end-of-waste criteria.***

*(First part is a new amendment based on Rule 62(2)(c) of the Rules of Procedure, second part is new to address an oversight in first reading so as to ensure coherence with international obligations.)*

#### *Justification*

*First part: In line with amendments 4 and 11 by the rapporteur, waste can only cease to be a waste when the re-use, recycling or recovery operation is completed. A mere checking of waste cannot be tantamount to completing a recovery operation.*

*Second part: The concepts of by-products and of a waste ceasing to be waste are not known in international waste legislation such as the Basel Convention on trans-boundary shipments of hazardous and other wastes. In order to ensure full compliance with international obligations, they cannot apply for trans-boundary shipments.*

*The guidelines published by the Commission (21 February 2007) are the relevant framework for clarifying this question and avoiding potential legal proceedings. The definition contained in the Council's common position could cause greater confusion and lead to an undesirable reclassification of waste as by-products.*

## **Amendment 9**

### **Council common position**

#### **Recital 20 a (new)**

##### *Council common position*

##### *Amendment*

***(20a) The end-of-waste status must not overall have a harmful impact on the environment or health due to the use of the substance or object. This means at all events that secondary products must not contain higher levels of pollutants than comparable primary raw materials. A quality certification system must be used to apply this criterion.***

*(The common position amends the article on end of waste status. This renders a clarification necessary.)*

#### *Justification*

*The end of waste status must not damage the environment or health. However, the incorporation of pollutants into a product can result in pollutants spreading into the environment. For example, using purified lead glass from cathode ray tubes to manufacture*

*building materials could result in a future release of lead at the time of demolition. This would not constitute sustainable use of secondary products.*

## **Amendment 10**

### **Council common position**

#### **Recital 21**

##### *Council common position*

(21) In order to verify or calculate if the recycling and recovery targets set in European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles, Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) and Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators as well as other relevant Community legislation are met, ***the amounts of*** waste which ***have*** ceased to be waste should be accounted for as recycled and recovered waste.

##### *Amendment*

(21) In order to verify or calculate if the recycling and recovery targets set in European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles, Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) and Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators as well as other relevant Community legislation are met, waste which ***has*** ceased to be waste should ***only*** be accounted for as recycled and recovered waste ***when the re-use, recycling or recovery operation is completed.***

##### *Justification*

*The text of the Common Position with regard to waste which ceases to be waste has been changed compared to the original Commission text. In order to preserve the integrity of the concept of recycling it is therefore important not to confuse the end of waste with recycling and this is the aim of the amendment.*

## **Amendment 11**

**Council common position**  
**Recital 22**

*Council common position*

(22) On the basis of the definition of waste, in order to promote certainty and consistency, the Commission **may** adopt **guidelines** to specify in certain cases when substances or objects become waste. Such **guidelines may** be developed *inter alia* for electrical and electronic equipment and vehicles.

*Amendment*

(22) On the basis of the definition of waste, in order to promote certainty and consistency, the Commission **should** adopt **measures** to specify in certain cases when substances or objects become waste. Such **measures should urgently** be developed *inter alia* for electrical and electronic equipment and vehicles **to close the loopholes in waste shipment legislation.** .

*Refers to amendment 17 and 1st reading agreement 103.*

*Justification*

*Large quantities of waste electrical and electronic equipment are shipped to Africa in the guise of reuse, only to be dumped there. Old vessels make their last journey to Asia, to be scrapped under completely unacceptable conditions for human health and the environment. It is long overdue that the Commission develops guidelines to close the loopholes in the waste shipment regulation with regard to the waste definition.*

**Amendment 12**

**Council common position**  
**Recital 26**

*Council common position*

(26) This Directive should help move the EU closer to a "recycling society", seeking to avoid waste generation and to use waste as a resource. In particular, the Sixth Community Environment Action Programme calls for measures aimed at ensuring the source separation, collection and recycling of priority waste streams. In line with that objective and as a means to facilitating or improving its recovery potential, waste should be separately collected if technically, environmentally and economically practicable, before undergoing recovery operations that deliver the best overall environmental

*Amendment*

(26) This Directive should help move the EU closer to a "recycling society", seeking to avoid waste generation and to use waste as a resource. In particular, the Sixth Community Environment Action Programme calls for measures aimed at ensuring the source separation, collection and recycling of priority waste streams. In line with that objective and as a means to facilitating or improving its recovery potential, waste should be separately collected **and hazardous compounds should be separated from waste streams**, if technically, environmentally and economically practicable, before

outcome.

undergoing recovery operations that deliver the best overall environmental outcome.

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure in line with amendment 54 from first reading)*

*Justification*

*The separation of hazardous compounds, where possible, improves the possibilities for recovery. Hazardous compounds should be taken out of the economic cycle, and not contaminate new products following recovery.*

**Amendment 13**

**Council common position  
Recital 26 a (new)**

*Council common position*

*Amendment*

***(26a) Member States should not support incineration of secondary raw materials (segregated recyclates such as recovered paper), in line with the aim of a recycling society.***

*Justification*

*After Commission has published the Climate Action and Renewable Energy Package, in particular proposal for a directive on the promotion of the use of energy from renewable sources, it is important to see that economic instruments are not used in a way that would render the waste hierarchy worthless.*

**Amendment 14**

**Council common position  
Recital 26 b (new)**

*Council common position*

*Amendment*

***(26b) While maintaining the necessary level of environmental protection, Member States should ensure sufficient and cost-effective management options for waste arising from recycling operations in recognition of the key***

*contribution of the recycling installations in reducing final disposal. Such residual waste represents an important bottleneck for further increases in recycling capacities and the competent authorities should take the necessary action in line with the aim of achieving the 'recycling society'.*

*(Am. 9 EP 1st reading)*

*Justification*

*The amendment clarifies that “secondary waste” from recycling operations needs to be planned for in order to achieve recycling society and to create lead markets in the EU.*

## **Amendment 15**

### **Council common position**

#### **Recital 28**

*Council common position*

(28) The waste hierarchy generally constitutes the best overall environmental option in waste legislation and policy, while departing from such hierarchy may be necessary for specific waste streams when justified for reasons of, *inter alia*, technical feasibility, economic viability and environmental protection.

*Amendment*

(28) The waste hierarchy generally ***lays down a priority order of what*** constitutes the best overall environmental option in waste legislation and policy, while departing from such hierarchy may be necessary for specific waste streams when justified for reasons of, *inter alia*, technical feasibility, economic viability and environmental protection.

*(New amendment based on Rule 62(2)((c) of the Rules of Procedure)*

*Justification*

*The hierarchy as such does not constitute the best environmental option in waste legislation, but sets out a priority list to identify the best environmental option.*

## **Amendment 16**

**Council common position**  
**Recital 29**

*Council common position*

*(29) It is necessary, in order to enable the Community as a whole to become self-sufficient in waste disposal and in the recovery of mixed municipal waste collected from private households and to enable the Member States to move towards that aim individually, to make provision for a network of cooperation as regards disposal installations and installations for the recovery of mixed municipal waste collected from private households, taking into account geographical circumstances and the need for specialised installations for certain types of waste.*

*Amendment*

*(29) According to the proximity principle, waste for disposal should be treated in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health. Each Member State should take appropriate measures, in cooperation with other Member States, to establish an integrated and adequate network of disposal installations, taking account of the best available techniques.*

*(Spirit of EP 1st reading amendment 109)*

*Justification*

*Waste treatment in the Community should not be defined by national borders but by the overall most environmentally sound treatment operation. The Internal market has always been the driver for high and harmonised environmental standards. Restrictions however are necessary for waste for disposal. The proximity principle ensures that unnecessary transport over long distances of waste for disposal that does not serve a useful purpose are avoided.*

**Amendment 17**

**Council common position**  
**Recital 32**

*Council common position*

(32) It is important, in accordance with the waste hierarchy, and for the purpose of reduction of greenhouse gas emissions originating from waste disposal on landfills, to **facilitate** the separate collection and proper treatment of bio-waste in order to produce environmentally-safe compost and other bio-waste based materials. **The Commission, after an**

*Amendment*

(32) It is important, in accordance with the waste hierarchy, and for the purpose of reduction of greenhouse gas emissions originating from waste disposal on landfills, to **ensure** the separate collection and proper treatment of bio-waste in order to produce environmentally-safe compost and other bio-waste based materials. **To this end, specific criteria for the**



***assessment on the management of bio-waste, will submit proposals for legislative measures, if appropriate.***

***collection, use and treatment of bio-waste should be set in this Directive. Member States should set up separate collection systems for bio-waste.***

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure, and in line with amendment 112/138 from first reading)*

#### *Justification*

*According to EP first reading all criteria on bio-waste should be set in this directive. It should not be left to the goodwill of Member States to take action on bio-waste. Enough is known about the benefits of composting to require concrete action now. Member States should be obliged to set up separate collection systems for bio-waste. The Commission study should instead serve to establish the right level of minimum targets.*

### **Amendment 18**

#### **Council common position**

##### **Recital 37**

#### *Council common position*

(37) In order to improve the way in which waste prevention actions are taken forward in the Member States and to facilitate the circulation of best practice in this area, it is necessary to ***strengthen the provisions*** relating to waste prevention and to introduce a requirement for the Member States to develop waste prevention programmes concentrating on the key environmental impacts and taking into account the whole life-cycle of products and materials. Such measures should pursue the objective of breaking the link between economic growth and the environmental impacts associated with the generation of waste. Stakeholders, ***as well as*** the general public, should have the opportunity to participate in the drawing up of the programmes, and should have access to them once drawn up, in line with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans

#### *Amendment*

(37) In order to improve the way in which waste prevention actions are taken forward in the Member States and to facilitate the circulation of best practice in this area, it is necessary to ***adopt Community targets and measures*** relating to waste prevention and to introduce a requirement for the Member States to develop waste prevention programmes concentrating on the key environmental impacts and taking into account the whole life-cycle of products and materials. Such measures should pursue the objective of breaking the link between economic growth and ***the growth in waste volumes as well as*** the environmental ***and health*** impacts associated with the generation of waste, ***by achieving a net reduction of waste generation, its harmfulness and its adverse impacts. Local and regional authorities, as well as*** stakeholders ***and*** the general public, should have the opportunity to participate in the drawing up of the programmes, and should have access to

and programmes relating to the environment.

them once drawn up, in line with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.

*(Reintroduction of amendment 10 of first reading)*

*Justification*

*This amendment is needed to align the recitals to amendment 18 by the rapporteur.*

**Amendment 19**

**Council common position**

**Recital 40**

*Council common position*

(40) In the interests of the simplification of Community legislation ***and the reflection of environmental benefits***, the relevant provisions of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils should be integrated into this Directive. Directive 75/439/EEC should therefore be repealed. The management of waste oils should be conducted in accordance with the guiding principle of the waste hierarchy, ***and preference should be given to options that deliver the best overall environmental outcome***. The separate collection of waste oils remains crucial to their proper management and the prevention of damage to the environment from their improper disposal.

*Amendment*

(40) In the interests of the simplification of Community legislation, the relevant provisions of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils should be integrated into this Directive. Directive 75/439/EEC should therefore be repealed. The management of waste oils should be conducted in accordance with the guiding principle of the waste hierarchy, ***and the priority given to regeneration should be maintained***. The separate collection of waste oils remains crucial to their proper management and the prevention of damage to the environment from their improper disposal.

*(New amendment based on Rule 62(2)(c) of the Rules of Procedure)*

*Justification*

*The only acceptable reason to integrate the waste oils directive into the waste framework directive is simplification. There are no environmental benefits in doing so.*

## Amendment 20

### Council common position

#### Article 2 – paragraph 1 – point (b)

*Council common position*

*Amendment*

***(b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land;*** ***deleted***

*(Partial reinstatement of amendment 15/134/102/123/126 of first reading)*

#### *Justification*

*According to the European Court of Justice, unexcavated contaminated soil should be considered as waste. It should therefore not be entirely excluded from the scope of this Directive, but only excluded to the extent that it may be covered by future Community legislation on soil. Contaminated sites are a major environmental problem and should be addressed properly.*

## Amendment 21

### Council common position

#### Article 2 – paragraph 1 – point (c)

*Council common position*

*Amendment*

***(c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated;***

***(c) uncontaminated excavated materials which can be used, either on the same site or on another site, on condition that these natural geological materials do not have any characteristics which are likely to result in a notable impact on the receiving environment;***

*Reinstates wording from EP 1st reading.*

#### *Justification*

*Any uncontaminated excavated material, not just material excavated in the course of construction activities, should be exempted from the scope of this Directive. There is no need to apply waste law to these materials. The aim is to prevent any changes occurring in the receiving environment due to the incorporation of natural geological materials from elsewhere, for example if these materials naturally contain high levels of one or more substances which would modify the initial natural equilibria.*

## Amendment 22

### Council common position

#### Article 2 – paragraph 1 – point (fa) (new)

*Council common position*

*Amendment*

***(fa) natural sediments and silt which do not display hazardous properties as defined in Annex III.***

#### *Justification*

*Amendment adopted by Parliament at first reading (amendments 15/134/102/123/126). In the Parliament's view, categorising as a waste treatment the lifting of sediment and silt from a body of water and putting it elsewhere in the same body of water is not practicable and has no environmental benefit. The Parliament would prefer to follow the OECD approach which implies that the displacement of such material in its environmental setting is a form of reuse, by which it does not become a waste.*

## Amendment 23

### Council common position

#### Article 2 – paragraph 2 – point (da) (new)

*Council common position*

*Amendment*

***(da) sewage sludge when used in agriculture in accordance with Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture<sup>1</sup>.***

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<sup>1</sup> OJ L 181, 4.7.1986, p. 6. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

#### *Justification*

*Based on an amendment adopted by Parliament at first reading (amendments 15/134/102/123/126). The recycling of sludge for agricultural use, after appropriate processing, should be exempted from this Directive since it is already covered by Council Directive 86/278/EEC on the protection of the environment, and in particular of the soil. That Directive covers the processing of sludge in such a way as to prevent any possible detrimental effects on soil, plants, animals and humans. Overlapping of the two Directives should be avoided.*

## Amendment 24

### Council common position Article 3 – point 4

#### *Council common position*

4) "bio-waste" means ***biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants;***

#### *Amendment*

4) "bio-waste" means ***waste of animal or plant origin, for recovery purposes, which can be decomposed by micro-organisms, soil-borne living organisms or enzymes; soil material with no significant bio-waste content and plant remains from agricultural production falling within the scope of Article 2(1)(f) are not bio-waste;***

#### *Justification*

*EP 1st reading amendment 30.*

## Amendment 25

### Council common position Article 3 – point 10 a (new)

#### *Council common position*

#### *Amendment*

***10a) "separate collection" means the collection where a waste stream is kept separately by type and nature of the waste and is separately transported;***

#### *Justification*

*Separate collection will be increasingly important to advance towards the recycling society and in forming lead markets for recycling. (EP 1st reading Amendment 104, supported by the Commission.)*

## Amendment 26

**Council common position**  
**Article 3 – point 11, point (c)**

*Council common position*

(c) the content of ***harmful*** substances in materials and products;

*Amendment*

(c) the content of ***hazardous*** substances in materials and products;

*Justification*

*The term “hazardous” is more appropriate than the term “harmful” since it is the generic word used in the EU legislation about dangerous substances and preparations.*

**Amendment 27**

**Council common position**  
**Article 3 – point 14**

*Council common position*

14) "recovery" means ***any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.*** Annex II sets out a non-exhaustive list of recovery operations;

*Amendment*

(14) "recovery" means ***a waste treatment operation that meets the following criteria:***

***(a) it results in waste substituting for other resources that would have been used to fulfil that function, in the plant or in the wider economy, or in it being prepared for such use;***

***(b) it results in waste serving a genuine purpose by that substitution;***

***(c) it meets any efficiency criteria, established in accordance with Article 35(1);***

***(d) it decreases the overall negative environmental impacts by using waste as a substitute for other resources;***

***(e) it ensures that the products comply with the applicable Community safety legislation and Community standards;***

***(f) it gives a high priority to the protection of human health and the environment and minimises the formation, release, and dispersal of hazardous substances in the process.***

Annex II sets out a non-exhaustive list of recovery operations;

### *Justification*

*Amendment adopted by Parliament at first reading (amendment 127). This is an important definition and needs to cover more aspects than the Council's text. The words 'in the plant or in the wider economy' are needed, in the rapporteur's view, because otherwise the recovery definition would only apply to plants where waste is used to power a process (e.g. cement kilns). But in fact many plants produce power and heat for external use (in the 'wider economy') in housing schemes ('district heating') or industry or community projects (schools, swimming pools). Given the increasing realisation now of the EU's shortage of home grown energy, it would be absurd to deny the right of the latter such plants, if energy efficient, to be deemed 'recovery' operations. This amendment therefore seeks to take account of the new fact of the EU's energy crisis while retaining the Parliament's full definition of recovery.*

## **Amendment 28**

### **Council common position Article 3 - point 16**

#### *Council common position*

16) "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 ***the*** reprocessing of organic material but does not include energy recovery ***and the reprocessing into materials that are to be used as fuels or for*** backfilling operations;

#### *Amendment*

16) "recycling" means ***the reprocessing of materials or substances in wastes through a production process whereby they produce or are incorporated in new*** products, materials or substances whether for the original or other purposes. It includes reprocessing of organic material, but does not include, ***inter alia***, energy recovery, ***conversion for use as a fuel, processes involving combustion or use as a source of energy, including chemical energy, or*** backfilling operations;

## **Amendment 29**

**Council common position**  
**Article 3 – point 18**

*Council common position*

18) "disposal" means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex I sets out a non-exhaustive list of disposal operations;

*Amendment*

18) “disposal” means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex I sets out a non-exhaustive list of disposal operations. ***All disposal operations shall give high priority to the protection of human health and the environment;***

**Amendment 30**

**Council common position**  
**Article 3 – point 18 a (new)**

*Council common position*

*Amendment*

***(18a) "energy recovery" means the use of combustible waste as a fuel for generating energy through direct incineration with or without other waste or fuel but with recovery of the heat. Incineration of waste where more energy is added than received during the process is not treated as energy recovery;***

*Justification*

*Amendment 26 of EP first reading. Correct implementation of the directive requires precise definition of “energy recovery” to be placed in Article 3. According to proposed definition energy recovery should mean any operation where the combustible waste is used as a fuel for generating energy. For distinction between recovery and disposal, the proposal states that the process could be treated as energy recovery only if efficiency of the process shows that energy is generated from waste.*

**Amendment 31**



**Council common position**  
**Article 3 – point 19 a (new)**

*Council common position*

*Amendment*

***(19a) "best available waste management techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques in order, during waste management operations, to avoid hazards to human health and environmental damage; Article 2(11) of and Annex IV to Directive 96/61/EC shall apply accordingly;***

*Justification*

*1st reading amendment 32.*

**Amendment 32**

**Council common position**  
**Article 3 a (new)**

*Council common position*

*Amendment*

***Article 3a***

***Waste hierarchy***

***1. The following waste hierarchy shall apply as a general rule in waste prevention and management legislation and policy:***

***(a) prevention and reduction;***

***(b) preparing for re-use;***

***(c) recycling;***

***(d) other recovery, e.g. energy recovery;  
and***

***(e) disposal.***

***2. When applying the waste hierarchy referred to in paragraph 1, Member States shall take measures to encourage the options that deliver the best overall***

*environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste. Member States shall ensure that this is a full and transparent process, observing national planning rules about the consultation and involvement of citizens and stakeholders.*

*Member States shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts, in accordance with Articles 1 and 10.*

*(former article 11. All references to 'Article 11' should therefore be changed to 'Article 3a').*

#### *Justification*

*This amendment includes amendments 21 and 22 of the draft recommendation. The purpose of this new amendment is to move Article 11 on the waste hierarchy to a more prominent place in the Directive. In the Commission proposal the waste hierarchy could be found in Article 1. The text on the waste hierarchy, including amendments 21 and 22, is therefore moved to this new Article 3a and Article 11 should be subsequently deleted.*

### **Amendment 33**

#### **Council common position Article 4**

*Council common position*

*Amendment*

*Article 4*

*deleted*

#### **By-products**

*1. A substance or object, resulting from a production process, the primary aim of which is not the production of that item, may be regarded as not being waste referred to in point (1) of Article 3 but as being a by-product only if the following*

*conditions are met:*

*(a) further use of the substance or object is certain;*

*(b) the substance or object can be used directly without any further processing other than normal industrial practice;*

*(c) the substance or object is produced as an integral part of a production process; and*

*(d) further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.*

*2. On the basis of the conditions laid down in paragraph 1, measures may be adopted to determine the criteria to be met for specific substances or objects to be regarded as a by-product and not as waste referred to in point (1) of Article 3. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).*

*(The guidelines published by the Commission (21 February 2007) are the relevant framework for clarifying this issue and avoiding potential legal proceedings.)*

#### *Justification*

*The definition contained in the Council's common position could lead to greater confusion and to an undesirable reclassification of waste as by-products. The concept of the 'by-product' therefore represents a considerable source of legal actions and a threat to the protection of the environment and health, as well as the objectives of a high level of protection in these two fields. There is no reason to add a new category between products and waste.*

#### **Amendment 34**

**Council common position**  
**Article 5 – paragraph 1 – subparagraph 1**

*Council common position*

1. ***Certain specified waste shall cease to be waste within the meaning of point (1) of Article 3*** when it has undergone a recovery operation and complies with specific criteria to be developed in accordance with the following conditions:

- (a) the substance or object is commonly used for ***a*** specific ***purpose***;
- (b) a market ***or demand*** exists for such a substance or object;
- (c) the substance or object fulfils the technical requirements for the specific ***purpose referred to in (a)*** and meets the existing legislation and standards applicable to products; and
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

*Amendment*

1. ***Member States may request the Commission to determine whether, by way of exception, a given waste has ceased to be a waste*** when it has undergone a recovery operation ***for recycling purposes*** and complies with specific criteria to be developed in accordance with the following conditions:

- (a) the substance or object is commonly used for ***the*** specific ***purposes***;
- (b) a market exists for such a substance or object;
- (c) the substance or object fulfils the technical requirements for the specific ***purposes*** and meets the existing legislation and standards applicable to products; and
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

*Justification*

*Under EU current law, waste which is processed into a fuel does not cease to be a waste until incineration or combustion has taken place. The Waste Incineration Directive provides a strict regulatory regime as well as operating standards that ensure high levels of public health and environmental protection. Declassifying such waste streams means that their combustion will no longer be subject to the Waste Incineration Directive nor the waste shipment regulations. This could lead to perverse environmental impacts.*

**Amendment 35**

**Council common position**  
**Article 5 – paragraph 1 - subparagraph 2 a (new)**

*Council common position*

*Amendment*

***The criteria shall take into account any risks of environmentally harmful use or shipment of the substance or object, and shall be set at a level that guarantees a***

***high level of protection for human health  
and the environment.***

*Justification*

*This amendment reintroduces the text of the Commission proposal, which the Council has deleted. It is important to the Parliament to give a high priority to the containment of risk and the achievement of a high level of protection for human health and the environment when waste ceases to be a waste.*

**Amendment 36**

**Council common position  
Article 5 - paragraph 2**

*Council common position*

***2. The measures relating to the adoption of such criteria and specifying the waste, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).***

*Amendment*

***2. By ...\* the Commission shall, if appropriate, on the basis of its assessment pursuant to paragraph 1, put forward a legislative proposal specifying the environmental and quality criteria to be met in order for specific products, materials or substance categories of waste to be deemed to have ceased to be waste.***

***\* Two years after entry into force of this Directive.***

*Justification*

*The development of environmental criteria for deciding end of waste status should be brought back under co decision, rather than comitology (based on the ideas of amendment 45 from first reading). This is in addition to calling for possible proposals on the list of specified substances to be examined for end-of-waste status, such as glass and paper.*

**Amendment 37**

**Council common position  
Article 5 - paragraph 3**

*Council common position*

***3. Waste which ceases to be waste in accordance with paragraphs 1 and 2, shall also cease to be waste for the purpose of the recovery and recycling targets set out in Directives 94/62/EC, 2000/53/EC,***

*Amendment*

***3. Waste which ceases to be waste in accordance with paragraphs 1 and 2 shall only count towards the recovery and recycling targets set out in Directives 94/62/EC, 2000/53/EC, 2002/96/EC and***

2002/96/EC and 2006/66/EC and other relevant Community legislation.

2006/66/EC and other relevant Community legislation *when the re-use, recycling or recovery operation is completed.*

*Justification*

*This paragraph of the Common Position has been expanded and slightly reworded compared to the original Commission text. The amendment is designed to introduce greater clarification. In order to preserve the integrity of the concept of recycling it is important not to confuse the end of waste with recycling and this is the aim of the amendment.*

**Amendment 38**

**Council common position  
Article 5 – paragraph 4**

*Council common position*

*Amendment*

**4. Where criteria have not been set at Community level under the procedure set out in paragraphs 1 and 2, Member States may decide case by case whether certain waste has ceased to be waste taking into account the applicable case law. They shall notify the Commission of such decisions in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services where so required by that Directive.** **deleted**

*Justification*

*Deletion of a new paragraph introduced by the Council. Following amendment 12 of the rapporteur, which covers the issue of end of waste criteria through a commission proposal, a provision to leave it up to individual member states is not necessary any more. Above that, to avoid unharmonised waste lists and to avoid unfair competition, this paragraph has to be deleted.*

**Amendment 39**

**Council common position**  
**Article 5 – paragraph 4 a (new)**

*Council common position*

*Amendment*

***4a. By..... \* the Commission shall, if appropriate, make proposals for determining whether at least the following waste streams fall under the provisions of this Article, and if so what specifications should apply to them: compost, aggregates, paper, glass, metal, end-of-life tyres, and waste textiles.***

***\*5 years after the entry into force of this Directive.***

*Justification*

*This amendment (amendment 45 in first reading) was transposed by the Council into a recital where it is listed among the things that the directive "should clarify" - but does not. The directive offers an opportunity to trigger such clarifying legislation which is much needed. It should not be missed. The words 'second hand clothing' have now been changed to 'waste textiles' in order to conform to the terms of the European Waste Catalogue, Commission decision 2000/532/EC.*

**Amendment 40**

**Council common position**  
**Article 6 – paragraph 2**

*Council common position*

*Amendment*

2. A Member State may consider waste as hazardous waste where, even though it does not appear as such on the list of waste, it displays one or more of the properties listed in Annex III. The Member State shall notify the Commission of any such cases in the report provided for in Article 34(1) and shall provide the Commission with all relevant information. In the light of notifications received, the list shall be reviewed in order to decide on its adaptation.

2. A Member State may consider waste as hazardous waste where, even though it does not appear as such on the list of waste, it displays one or more of the properties listed in Annex III. The Member State shall notify the Commission ***immediately*** of any such cases. ***It shall record them*** in the report provided for in Article 34(1) and shall provide the Commission with all relevant information. In the light of notifications received, the list shall be reviewed in order to decide on its adaptation.

*Justification*

*Amendment adopted by Parliament at first reading (amendment 50). Parliament gives a high*

*priority to ensuring that the repeal of the Hazardous Waste Directive does not mean any lowering of standards of protection.*

## **Amendment 41**

### **Council common position**

#### **Article 6 – paragraphs 3, 3 a (new), 4 and 4 a (new)**

##### *Council common position*

3. Where a Member State has evidence to show that specific waste that appears on the list as hazardous waste does not display any of the properties listed in Annex III, it ***may consider that waste as non-hazardous waste. The Member State shall notify the Commission of any such cases in the report provided for in Article 34(1)*** and shall provide the Commission with the necessary evidence. In the light of notifications received, the list shall be reviewed in order to decide on its adaptation.

4. The measures relating to the revision of the list in order to decide on its adaptation pursuant to paragraphs 2 and 3, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).

##### *Amendment*

3. Where a Member State has evidence to show that specific waste that appears on the list as hazardous waste does not display any of the properties listed in Annex III, it ***shall notify any such cases immediately to the Commission*** and shall provide the Commission with the necessary evidence. In the light of notifications received, the list shall be reviewed in order to decide on its adaptation.

***3a. The reclassification of hazardous waste as non-hazardous waste may not be achieved by diluting or mixing the waste with the aim of lowering the initial concentrations of pollutants to a level below the thresholds for defining waste as hazardous.***

4. The measures relating to the revision of the list in order to decide on its adaptation pursuant to paragraphs 2 and 3, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).

***4a. Member States may treat the waste as non-hazardous waste after the adaptation of the list has been adopted.***

*Re-tabling of amendment 46 of EP first reading.*

##### *Justification*

*Reintroduces amendment 51/172 from first reading. The first part of the amendment relates to*



*Parliament's concern to maintain a high standard of protection and reporting. The second part represents a necessary clarification.*

## **Amendment 42**

### **Council common position Article 6 – paragraph 4 b (new)**

*Council common position*

*Amendment*

***4b. The Commission shall ensure that the list of wastes and any review of this list adhere to principles of clarity, comprehensibility and accessibility for users, particularly SMEs.***

*Justification*

*A similar amendment to Amendment 36, which was adopted at first reading ('The Commission shall ensure that this list is sufficiently easily understandable to SMEs and easily accessible'). The list of wastes in its current form is a complex document which is at odds with the objectives of better lawmaking and simplification advocated by the European institutions.*

## **Amendment 43**

### **Council common position Article 7 – paragraph 1**

*Council common position*

*Amendment*

1. In order to strengthen the prevention **and** recovery of waste, Member States **may** take legislative or non-legislative measures to ensure that any natural or legal person who professionally **develops, manufactures, processes and treats or sells** products (**producer of the product**) has extended producer responsibility.

Such measures may include an acceptance of returned products and of the waste that remains after those products have been used, as well as the subsequent management of the waste and financial responsibility for such activities.

1. In order to strengthen the prevention, recovery, **re-use and recycling** of waste, Member States **shall, where appropriate,** take legislative or non-legislative measures to ensure that any natural or legal person who professionally manufactures products, **or imports products into the territory of the Community,** has extended producer responsibility.

Such measures may include an acceptance of returned products and of the waste that remains after those products have been used, as well as the subsequent management of the waste and financial responsibility for such activities. **These**

***measures may include the obligation to provide publicly available information as to the extent to which the product is re-usable and recyclable.***

### *Justification*

*Amendment based on amendments adopted in first reading (amendments 35 and 37) adapted to the current text of the Council. The Council's text makes such measures optional whereas the Parliament believes, in its amendment to old Article 5, that they should be compulsory. The Parliament place a high priority on involving the public in the reuse and recycling processes.*

## **Amendment 44**

### **Council common position Article 7 – paragraph 2**

#### *Council common position*

2. ***Member States may*** take appropriate measures to ***encourage the design of*** products in order to reduce their environmental impacts and the generation of waste in the course of the production and subsequent use of products, and in order to ensure that the recovery and disposal of products that have become waste take place in accordance with Articles 10 and 11.

Such measures may 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 proper and safe recovery and environmentally compatible disposal.

#### *Amendment*

2. ***Producers shall*** take appropriate measures to ***design*** products in order to reduce their environmental impacts and the generation of waste in the course of the production and subsequent use of products, and in order to ensure that the recovery and disposal of products that have become waste take place in accordance with Articles 10 and 11.

***Member States may take appropriate measures, in accordance with paragraph 1, to encourage the design of products to the same ends.***

Such measures may 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 proper and safe recovery and environmentally compatible disposal. ***This should include the obligation on producers or importers to provide publicly available information as to the extent to which the waste product is recyclable.***

### *Justification*

*The responsibility for design for prevention and recycling should lie on producers. Member states should then back this up with appropriate measures to encourage this, if necessary with legislative requirements on specific priority product areas – as has been done with waste electronic and electrical equipment. In order to promote appropriate recycling operations, producers or importers should provide information on the extent to which their products are recyclable when they become a waste.*

### **Amendment 45**

#### **Council common position**

#### **Article 7 - paragraph 2 a (new)**

*Council common position*

*Amendment*

***2a. Member States shall take appropriate measures to encourage the establishment of facilities to make repair and re-use possible and of facilities for separate collection, take back and disposal of products in a responsible manner at the end of their life.***

### *Justification*

*Based on an amendment adopted by Parliament at first reading (amendment 35). Parliament believed that this text is necessary to reinforce its support for repair and reuse facilities.*

### **Amendment 46**

#### **Council common position**

#### **Article 7 - paragraph 2b (new)**

*Council common position*

*Amendment*

***2b. Member States shall report to the Commission on the implementation of this Article in their implementation report pursuant to Article 34. The Commission shall assess the appropriateness of introducing extended producer responsibility schemes for specific waste streams at EU level, based on the experiences of Member States.***

*(Partial reinstatement of amendment 35 from first reading in a modified form)*

*Justification*

*Amendment moved by Parliament at first reading (Amendment 35). It is necessary to have continuous monitoring of producer responsibility to ensure that such schemes are effective. If action by Member States on extended producer responsibility is to remain voluntary, then they should at least report on all actions taken in this respect, with a view to facilitate Community action.*

**Amendment 47**

**Council common position  
Article 7 – paragraph 4**

*Council common position*

4. The extended producer responsibility shall be applied without prejudice to the responsibility for waste management as provided for in Article 13(1).

*Amendment*

4. The extended producer responsibility shall be applied without prejudice to the responsibility for waste management as provided for in Article 13(1) ***and without prejudice to existing waste stream specific legislation.***

*Justification*

*Clarifies a provision that has been newly introduced by the Council in its common position. Strengthens implementation of existing waste stream specific legislation.*

**Amendment 48**

**Council common position  
Article 7 a (new)**

*Council common position*

*Amendment*

***Article 7a***

***Prevention of waste***

***Member States shall, in accordance with Articles 1 and 3a, and taking account of Article 7 and of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products<sup>1</sup>, take all necessary measures to stabilise***

*their overall waste production by 2012 as compared to their overall annual waste production in 2009.*

*Stabilisation shall mean no further increase in generation relative to the start of the stabilisation period.*

*As a necessary preliminary to the measures set out in Article 26, following the consultation of all stakeholders the Commission shall, if appropriate, submit to the European Parliament and the Council proposals for measures required in support of the Member States' prevention activities, to cover:*

*(a) by 2009, a list of indicators that will enable Member States to monitor, assess and report on the progress of their waste prevention programmes and measures;*

*(b) by 2010, the formulation of a product ecodesign policy addressing both the generation of waste and the presence of hazardous substances in waste, with a view to promoting technologies focusing on durable, re-usable and recyclable products;*

*(c) by 2010, the setting of further qualitative and quantitative waste reduction objectives for 2020, based on best available practice;*

*(d) by 2010, the formulation of an action plan for further support measures at European level seeking in particular to change current consumption patterns.*

*<sup>1</sup> OJ L 191, 22.7.2005, p. 29. Directive as last amended by Directive 2008/28/EC (OJ L 81, 20.3.2008, p. 48).*

#### *Justification*

*Amendment agreed by Parliament at first reading (amendment 37). The Parliament gives a high priority to the adoption of such targets, for the prevention and recycling of waste. It is important to involve producers in waste prevention. At first reading Parliament adopted detailed provisions as to how producer responsibility could be approached with reference to waste production inter alia. The Council accepted part of this. This amendment aims to set out producer responsibility in the area of waste prevention once again in a somewhat clearer*

*form.*

## **Amendment 49**

### **Council common position Article 8 – paragraph 1**

#### *Council common position*

1. Member States shall take the necessary measures to ensure that waste undergoes recovery operations, in accordance with **Articles 10 and 11**.

#### *Amendment*

1. Member States shall take the necessary measures, ***in accordance with Article 1***, to ensure that waste undergoes recovery operations, in accordance with **Articles 3a and 10**.

***These shall include at least the operations listed in Annex II, provided that they satisfy the definition of recovery in point (14) of Article 3.***

#### *Justification*

*Partial reinstatement of Amendment 38 as adopted at first reading.*

## **Amendment 50**

### **Council common position Article 8 – paragraph 2 a (new)**

#### *Council common position*

#### *Amendment*

***2a. By...\* the Commission shall put forward a legislative proposal in accordance with the procedure laid down in Article 251 of the Treaty in order to set environmental and efficiency criteria based on best available techniques for recovery operations in Annex II.***

***\* Two years after entry into force of this Directive.***

*(Partial reintroduction of amendment 38/108/157/140 and 141 from first reading)*

#### *Justification*

*In case efficiency criteria are set for waste incineration in this directive, the same should be done for other recovery operations to better distinguish true recovery operations from sham recovery operations. As such criteria would be essential elements, they should be set in co-*

*decision.*

## **Amendment 51**

### **Council common position**

#### **Article 8 – paragraph 2 b (new)**

*Council common position*

*Amendment*

***2b. Member States shall take measures to promote high quality recycling and to this end they shall adopt separate collection schemes wherever necessary to guarantee the necessary quality standards for the relevant recycling sectors.***

***By 2015 the Member States shall set up separate waste collection schemes for at least the following: paper, metal, plastic, glass, textiles, other biodegradable wastes, oil and hazardous wastes. This shall apply without prejudice to existing or future waste stream legislation or the requirements of Article 18.***

*Justification*

*Retabling of amendment 141 adopted in first reading.*

## **Amendment 52**

### **Council common position**

#### **Article 8 a (new)**

*Council common position*

*Amendment*

#### ***Article 8a***

##### ***Re-use and recycling***

***1. Member States, taking account of Article 7 and of Directive 2005/32/EC, shall take measures to promote the re-use of products, notably through the establishment and support of accredited re-use and repair networks and by establishing, where necessary, the relevant process and product standards.***

*Member States may take other measures to promote re-use, such as the use of economic instruments, procurement criteria, quantitative objectives or prohibitions on the placing on the market of certain products.*

*2. In order to comply with the objectives of this Directive, and to move towards a European recycling society, with a high level of resource efficiency, Member States, taking account of Article 7 and of Directive 2005/32/EC, shall take the necessary measures to ensure that the following targets are attained:*

*(a) by 2020, the preparing for re-use and the recycling of household and similar wastes shall be increased to a minimum of 50% by weight;*

*(b) by 2020, the preparing for re-use and the recycling of construction and demolition waste, of manufacturing waste and of industrial waste shall be increased to a minimum of 70% by weight.*

*For those countries with less than 5% recycling in either category or no official figures, according to Eurostat data of 2000-2005, an additional period of five years may be granted to reach the targets.*

*Member States shall take measures to promote high quality recycling and to this end they shall adopt separate collection schemes wherever necessary to guarantee the necessary quality standards for the relevant recycling sectors.*

*By 2015 the Member States shall set up separate waste collection schemes for at least the following: paper, metal, plastic, glass, textiles, other biodegradable wastes, oil and hazardous wastes. This shall apply without prejudice to existing or future waste stream legislation or the requirements of Article 18.*

*In order to harmonise the characteristics and presentation of the data produced and to make the data compatible, Member*



***States shall report them under the requirements of Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics<sup>1</sup>. If necessary, the Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 36(2) of this Directive, establish detailed rules for verifying Member States' compliance with the targets set out in this paragraph.***

<sup>1</sup> OJ L 332, 9.12.2002, p. 1. Regulation as last amended by Regulation (EC) No 1893/2006 (OJ L 393, 30.12.2006, p. 1).

*(first reading)*

*Justification*

*This amendment replaces amendment 19 in the draft recommendation, as the text has been refined to include the words 'similar wastes' (paragraph 2a) and to remove the words 'preparing for' (paragraphs 2a and 2b). As it stands, the draft directive gives inadequate expression to the priorities expressed in the thematic strategy: this amendment, which is based on amendments 38/108/157/140/141 from first reading, is designed to remedy this. However, paragraph 2 of the amendment has been reworded in light of new information from the European Commission.*

## **Amendment 53**

### **Council common position**

#### **Article 9**

##### *Council common position*

Member States shall ensure that, where recovery in accordance with Article 8(1) is not undertaken, waste undergoes disposal operations.

##### *Amendment*

Member States shall ensure that, where recovery in accordance with Article 8(1) is not undertaken, waste undergoes ***safe*** disposal operations ***which meet the objectives of Article 10.***

***They shall prohibit the abandonment, dumping or uncontrolled disposal of waste.***

***Disposal operations classified according to Annex I as D 11 (Incineration at sea) and D7 (Release into seas/oceans including sea-bed insertion) shall be***

*forbidden.*

*Justification*

*Amendment adopted by the Parliament at first reading (amendments 39 and 158). The amendment is needed for comprehensive coverage of the disposal of waste. It should be made explicit that incineration at sea and release of waste into seas/oceans, including sea-bed insertion, is prohibited.*

**Amendment 54**

**Council common position**

**Article 11**

*Council common position*

*Amendment*

*Article 11*

*deleted*

***Waste hierarchy***

***1. The following waste hierarchy shall apply as a guiding principle in waste prevention and management legislation and policy:***

***(a) prevention;***

***(b) preparing for re-use;***

***(c) recycling;***

***(d) other recovery, e.g. energy recovery; and***

***(e) disposal.***

***2. When applying the waste hierarchy referred to in paragraph 1, Member States shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.***

***Member States shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and***

***economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts, in accordance with Articles 1 and 10.***

*Justification*

*In the Commission proposal the waste hierarchy could be found in Article 1. This amendment is linked to the previous amendment which moves the text on the waste hierarchy, including amendments 21 and 22, from Article 11, where the Council has inserted it, to a new Article 3a. Subsequently Article 11 should be deleted.*

**Amendment 55**

**Council common position**

**Article 14 – paragraph 1 – subparagraph 2**

*Council common position*

By way of derogation from Regulation (EC) No 1013/2006, Member States may, in order to protect their network, limit incoming shipments of waste destined to incinerators ***that are classified as recovery***, where it has been established that such shipments would result in national waste having to be disposed of or waste having to be treated in a way that is not consistent with their waste management plans. Member States shall notify the Commission of any such decision. Member States may also limit outgoing shipments of waste on environmental grounds as set out in Regulation (EC) No 1013/2006.

*Amendment*

By way of derogation from Regulation (EC) No 1013/2006, Member States may, in order to protect ***the environment or*** their network, limit incoming shipments of waste destined to incinerators, where it has been established that such shipments would result in national waste having to be disposed of or waste having to be treated in a way that is not consistent with their waste management plans. Member States shall notify the Commission of any such decision. Member States may also limit outgoing shipments of waste on environmental grounds as set out in Regulation (EC) No 1013/2006.

*Justification*

*Unnecessary text. All incineration should be covered irrelevant of classification. Member states should also be able to prevent import of waste to their national incinerators on environmental grounds (e.g. reduction of emissions and toxic ashes arising from incineration).*

**Amendment 56**

**Council common position**  
**Article 14 a (new)**

*Council common position*

*Amendment*

**Article 14a**

***Traceability and control of hazardous waste***

***In accordance with the provisions set out in this Directive regarding hazardous waste, Member States shall take the necessary action to ensure that the production, collection and transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing optimum protection for the environment and human health and safety for operators, industrial sites and individuals, including as a minimum taking measures to ensure traceability and control from production to final destination of any hazardous waste and proper risk assessment during its management.***

*Justification*

*Amendment adopted by Parliament at first reading (amendment 52). Parliament gives a high priority to ensuring that the repeal of the Hazardous Waste Directive does not mean any lowering of standards of protection.*

**Amendment 57**

**Council common position**  
**Article 15 – paragraph 2 – point ca (new)**

*Council common position*

*Amendment*

***(ca) the mixing operation is not aiming at the dilution of hazardous substances in wastes solely in order to comply with lower standards of environmental and health protection for the further treatment or disposal of the waste than those applicable to the non-diluted waste.***

### *Justification*

*The Council stated that the ban on mixing of hazardous waste also applies to the dilution of hazardous waste. However, the definition needs further clarification about the practical meaning of the ban.*

## **Amendment 58**

### **Council common position**

#### **Article 15 – paragraph 2 a (new)**

*Council common position*

*Amendment*

***2a. Member States shall encourage the separation of hazardous compounds from all waste streams before they enter the recovery chain.***

*(Reinstatement of amendment 54 of first reading)*

### *Justification*

*The separation of hazardous compounds, where possible, improves the possibilities for recovery. Hazardous compounds should be taken out of the economic cycle, and not contaminate new products following recovery.*

## **Amendment 59**

### **Council common position**

#### **Article 18 – paragraph 1 – point b**

*Council common position*

*Amendment*

(b) waste oils are treated in accordance with ***Articles 10 and 11***;

(b) waste oils are treated in accordance with ***Articles 3a and 10, giving preference to regeneration wherever possible***;

*(Partial reintroduction of amendment 56 from first reading.)*

### *Justification*

*In line with existing legislation, and the stated objective of the EU to become a "recycling society", the preference for regeneration of waste oils should be set out explicitly. This amendment will ensure that a preference is given to the material recycling of waste oils despite the repeal of the Waste Oil Directive. It would be consistent with the stated objective of the EU to becoming a "recycling society".*

## Amendment 60

### Council common position Article 18 – paragraph 3

#### *Council common position*

**3. If waste oils, according to national legislation, are subject to requirements of regeneration, Member States may prescribe that such waste oils shall be regenerated if technically feasible and, where Articles 11 or 12 of Regulation (EC) No 1013/2006 apply, restrict the transboundary shipment of waste oils from their territory to incineration or co-incineration facilities in order to give priority to the regeneration of waste oils.**

#### *Amendment*

**3. Where technical, economic and organisational constraints so allow, Member States shall take the measures necessary to give priority to the processing of waste oils by regeneration. Consequently, where Articles 11 or 12 of Regulation (EC) No 1013/2006 apply, Member States may restrict the transboundary shipment of waste oils from their territory to incineration or co-incineration facilities in order to give priority to the regeneration of waste oils.**

*(Amendment consequent to the reintroduction of amendment 56 from first reading.)*

#### *Justification*

*In line with existing legislation, and the stated objective of the EU to become a "recycling society", the preference for regeneration of waste oils should be set out explicitly. When such preference is a Community requirement, there is no need anymore for requirements by Member States. The priority accorded to the regeneration of waste oils in Directive 75/439 should be maintained. Given the continuing rise in demand for oil at the same time as the resource is being steadily depleted, it is essential to make use of every source available. The global importance of oil makes maintaining this priority given to regeneration a matter of urgency.*

## Amendment 61

### Council common position Article 19

#### *Council common position*

##### *Bio-waste*

**Member States shall take measures, as appropriate, and in accordance with Articles 10 and 11, to encourage:**  
**(a) the separate collection of bio-waste;**

#### *Amendment*

##### ***Collection and use of bio-waste***

**1. Priority shall be given to material recovery, at home or in local or regional bio-waste installations.**  
**2. With a view to implementing the objectives set out in Article 1, Member States shall, by ... \*, develop a system for**

*(b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;*

*(c) the use of environmentally safe materials produced from bio-waste.*

*The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate.*

*the separate collection of bio-waste.*

*Minimum safety requirements for collection and treatment, and environmental and quality criteria including limit values for pollutants for the use of environmentally safe materials produced from bio-waste shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).*

*Not later than ...\*, the Commission shall put forward a legislative proposal on minimum targets for separate collection of bio-waste.*

*\* Three years after the entry into force of this Directive.*

#### *Justification*

*EP 1st reading amendment 112. Bio-waste plays an essential part in the reduction of methane emissions. Moreover, the recovery of bio-wastes contributes to the protection of resources which otherwise would have been used for that purpose. Priority should be given to material recovery of bio-waste.*

#### **Amendment 62**

##### **Council common position Article 19 a (new)**

*Council common position*

*Amendment*

##### *Article 19a*

##### *Treatment of bio-waste*

*1. Producers and holders shall, prior to bio-waste being spread on land, subject it to treatment that will ensure that it is safe from the point of view of human, animal and plant health. This shall also apply to catering waste produced by restaurants and catering facilities where it is not required to be disposed of in accordance*

*with the provisions of Regulation (EC) No 1774/2002.*

*2. The Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 36(2), adopt implementing measures, specifying the minimum requirements for checking safety from the point of view of human, animal and plant health.*

*3. In order to ensure that spreading of bio-waste on land is carried out in an environmentally sound way, the Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 36(2), adopt implementing measures, specifying the environmental and quality criteria to be met in order for bio-waste to be spread on land used for agricultural, forestry or horticultural/gardening purposes, and to be deemed to have ceased to be waste.*

*4. The implementing measures provided for in paragraph 3 shall include at least binding limit values for heavy metals, physical contaminants and content of viable seeds and parts of plants capable of sprouting as well as a list of suitable source materials.*

*5. The criteria shall take into account any risks of environmentally harmful use or shipment of bio-waste, and shall be set at a level that guarantees a high level of protection for human health and the environment.*

#### *Justification*

*EP 1st reading amendment 112. Bio-waste plays an essential part in the reduction of methane emissions. Moreover, the recovery of bio-wastes contributes to the protection of resources which otherwise would have been used for that purpose. Priority should be given to material recovery of bio-waste.*

#### **Amendment 63**



**Council common position**  
**Article 19 b (new)**

*Council common position*

*Amendment*

**Article 19b**

**Controls**

**1. Member States shall ensure that, in order to monitor compliance with the requirements laid down in Article 19a, quality assurance systems are set up and operated.**

**2. Member States shall ensure that tests for harmful substances are carried out at regular intervals.**

*Justification*

*EP 1st reading amendment 112. Bio-waste plays an essential part in the reduction of methane emissions. Moreover, the recovery of bio-wastes contributes to the protection of resources which otherwise would have been used for that purpose. Priority should be given to material recovery of bio-waste.*

**Amendment 64**

**Council common position**  
**Article 19 c (new)**

*Council common position*

*Amendment*

**Article 19c**

**Catering Waste**

**The recovery of untreated catering waste for feeding purposes shall be prohibited. Catering waste shall be verifiably eliminated by licensed undertakings and sterilised and safely disposed of by means of appropriate operations. The use of catering waste in feed for pigs may be authorised by Member States only on condition that there is, in every respect, monitoring of safe recovery, sterilisation and compliance with the other provisions of Regulation (EC) No 1774/2002.**

### *Justification*

*EP 1st reading amendment 98/113. Feeding untreated waste from central kitchens and catering facilities harbours a huge risk of disease. Without a regulated and monitored disposal system, the feeding ban is impracticable. Use of verifiably sterilised catering waste in feed should be permissible, under strictly supervised conditions, so as to prevent illegal feeding of untreated waste food.*

### **Amendment 65**

#### **Council common position**

#### **Article 20 – paragraph 5 a (new)**

##### *Council common position*

##### *Amendment*

***5a. All hazardous waste treatment installations shall be subject to a specific permit requirement which shall include a description of the planned measures intended to ensure that the plant is designed, equipped and operated in a manner in keeping with the waste categories treated and their related risks.***

***The permit issued by the competent authorities shall specify:***

***(a) the amounts and the categories of hazardous waste that may be treated;***

***(b) the technical requirements for the waste treatment activities providing optimum environmental protection and guaranteeing a high level of safety.***

***When the operator of a non-hazardous waste treatment plant is envisaging a change of operation which would involve hazardous waste, this shall be regarded as a substantial change within the meaning of Article 2(10)(b) of Directive 96/61/EC, and Article 12(2) of that Directive shall apply.***

### *Justification*

*Permits delivered to hazardous waste treatment facilities should consider the specificities of such wastes and the risks linked to their treatment. No derogation should be allowed.*

*Amendment 58 adopted at 1<sup>st</sup> Reading dealt with this specific requirement.*

## **Amendment 66**

### **Council common position Article 21**

#### *Council common position*

Member States may exempt from the requirement laid down in Article 20(1) establishments or undertakings for ***the following operations***:

- (a)*** disposal of their own non-hazardous waste at the place of production; ***or***
- (b)*** recovery of waste.

#### *Amendment*

Member States may exempt from the requirement laid down in Article 20(1) establishments or undertakings for disposal of their own non-hazardous waste at the place of production.

*(Partial reintroduction of amendment 161 from first reading.)*

#### *Justification*

*It is unacceptable to give Member States a blanket possibility to exempt any recovery operation from permit requirements, including even hazardous waste.*

## **Amendment 67**

### **Council common position Article 22 – paragraph 1 – subparagraph 2 a (new)**

#### *Council common position*

#### *Amendment*

***No exemptions shall be granted for the treatment of hazardous waste.***

*(Partial reintroduction of amendment 161 from first reading in a modified form.)*

#### *Justification*

*The treatment of hazardous waste should always be subject to a permit.*

## **Amendment 68**

**Council common position**  
**Article 22 – paragraph 2**

*Council common position*

*Amendment*

**2. In addition to the general rules provided for in paragraph 1, Member States shall lay down specific conditions for exemptions relating to hazardous waste, including types of activity, as well as any other necessary requirement for carrying out different forms of recovery and, where relevant, the limit values for the content of hazardous substances in the waste as well as the emission limit values.** **deleted**

*(Reintroduction of amendment 188 from first reading.)*

*Justification*

*The treatment of hazardous waste should always be subject to a permit.*

**Amendment 69**

**Council common position**  
**Article 23 – paragraph 1 a (new)**

*Council common position*

*Amendment*

***Where possible, existing records held by the competent authority will be used to obtain the relevant information for this registration process in order to minimise bureaucracy.***

*Justification*

*Self explanatory amendment, adopted in the first reading amendment 163, in order to avoid duplication of administrative efforts.*

**Amendment 70**

**Council common position**  
**Article 24 – paragraph 4 a (new)**

*Council common position*

*Amendment*

***4a. Minimum standards adopted under this Article shall not be considered as Community legislation within the meaning of the first indent of Article 12(1)(c) of Regulation (EC) No 1013/2006.***

*Justification*

*This article was added with the common position, but is questionable with regard to the cross-border shipment of waste. When waste is shipped for recovery, an objection can be made under the regulation on shipments of waste, if the standards of a plant to which the waste is to be shipped are lower than those in country of dispatch. This, however, is no longer possible if standards exist at Community level. There is no justification for excluding these grounds for raising an objection, if such minimum standards are established through the comitology procedure.*

**Amendment 71**

**Council common position**  
**Article 26 – paragraph 1 - subparagraph 1**

*Council common position*

*Amendment*

1. Member States shall establish, in accordance with **Articles 1 and 11**, waste prevention programmes not later than ...\*.

***1. Member States shall, in accordance with Articles 1, 3a and 7a, take all the necessary measures to stabilise their overall waste production. Stabilisation shall mean no further increase in generation of waste relative to the start of the stabilisation period. As a first step, Member States shall establish, in accordance with in accordance with the same Articles, waste prevention programmes not later than ...\*.***

*Justification*

*Based on amendment moved by the Parliament at the first reading (amendment 69) and on new information. The Parliament gives a high priority to the adoption of targets for the prevention and recycling of wastes.*

## Amendment 72

### Council common position

#### Article 26 – paragraphs 3 and 4

##### *Council common position*

3. Member States shall determine appropriate specific qualitative or quantitative **benchmarks for waste prevention measures adopted in order to monitor and assess the progress of the measures and may determine specific qualitative or quantitative targets and indicators, other than those referred to in paragraph 4, for the same purpose.**

**4. Indicators for waste prevention measures may be adopted in accordance with the procedure referred to in Article 36(3).**

##### *Amendment*

3. Member States shall determine appropriate specific qualitative **and** quantitative **targets within such programmes based on at least the starting point target of stabilising waste generation by 2012 and further significantly reducing waste generation by 2020, as set out in Article 7a.**

##### *Justification*

*Based on amendment moved by the Parliament at the first reading (amendment 69) and on new information. The Parliament gives a high priority to the adoption of targets for the prevention and recycling of wastes.*

## Amendment 73

### Council common position

#### Article 26 – paragraph 5

##### *Council common position*

5. The Commission shall develop guidelines in order to assist the Member States in the preparation of the Programmes.

##### *Amendment*

5. The Commission shall **create a system for sharing information on best practice regarding waste prevention and** develop guidelines in order to assist the Member States in the preparation of the Programmes.

##### *Justification*

*Amendment moved at first reading (amendment 69). Such as system would allow authorities to take inspiration from effective measures taken in another member state.*

## Amendment 74

### Council common position Article 27

#### *Council common position*

Member States shall ***ensure that the waste management plans and waste prevention programmes are evaluated at least every sixth year and revised as appropriate.***

#### *Amendment*

Member States shall ***regularly evaluate the waste prevention programmes, and as a minimum revise them at least every five years. The European Environment Agency shall include in its annual report a review of progress in the completion and implementation of such programmes.***

#### *Justification*

*The EEA needs to be brought into play to help the Commission and Parliament find out what is going on continuously on the ground. Member States can easily evade surveillance by simply delaying the submission of their reports to the Commission. According to Directive 91/692/EEC, Member States had to submit their periodic reports on the existing Waste Framework Directive by 30 September 2004. By 31 December 2004, only 9 had done so. They were Germany, Denmark, Greece, Finland, Portugal, Sweden, the Czech Republic, Slovenia and Slovakia. Reintroduces Amendment 71 from first reading.*

## Amendment 75

### Council common position Article 29 a (new)

#### *Council common position*

#### *Amendment*

#### ***Article 29a***

#### ***Supplemental measures***

***By ... \* the Commission shall draw up a report with a view to considering measures that may contribute to achieving the fulfilment of the objectives set out in Articles 1 and 3a more effectively. The report shall be submitted to the European Parliament and to the Council within six months of its completion, accompanied by proposals as appropriate.***

***The report shall in particular consider:***

***(a) whether Annex II should be amended***

*in order to:*

*(i) omit cases where listed operations do not lead to a sufficiently high proportion of the waste serving a useful purpose to be consistent with the objective set out in Article 1,*

*(ii) identify cases where the proportion of waste being used as opposed to that which is disposed of as part of a recovery operation should be specified in order to ensure that the objective set out in Article 1 is met,*

*(iii) specify a different energy efficiency level or levels in relation to recovery operation R1,*

*(iv) adapt any references in the light of technical and scientific progress;*

*(b) whether Annex I should be amended in order to:*

*(i) add any operations omitted from Annex II,*

*(ii) adapt any references in the light of technical and scientific progress; and*

*(c) whether specifying minimum standards for particular disposal or recovery operations will contribute to the objectives set out in Article 10.*

*The requirement for this report will not prevent the Commission from coming forward with any proposals in the meantime.*

*\* Two years after the entry into force of this Directive.*

#### *Justification*

*Reintroduces amendment 61 adopted in first reading. The proposal includes numerous references to the comitology procedure which leaves several important areas subject to amendment without proper scrutiny. This amendment would remedy this by requiring the Commission to report on several important areas with the intention that they would then be in a position to come forward with new proposals for the Parliament and Council to consider. The Commission must have in mind specific proposals already for the areas where it has proposed comitology procedures and it should therefore be in a position to bring these*



*forward quickly. This should not prevent change in the interim, as the amendment makes clear that the Commission can come forward with its own proposals in the interim.*

## **Amendment 76**

### **Council common position**

#### **Article 32 - paragraph 1**

##### *Council common position*

1. The establishments or undertakings referred to in Article 20(1), the producers of hazardous waste and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and shall make that information available, on request, to the competent authorities.

##### *Amendment*

1. The establishments or undertakings referred to in Article 20(1), the producers of hazardous waste and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a ***chronological*** record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and shall make that information available, on request, to the competent authorities.

##### *Justification*

*Amendment adopted by Parliament at first reading (amendment 74). Parliament gives a high priority to ensuring that the repeal of the Hazardous Waste Directive does not mean any lowering of standards of protection.*

## **Amendment 77**

### **Council common position**

#### **Article 32 – paragraph 2**

##### *Council common position*

2. For hazardous waste, the records shall be preserved for at least ***three years except in the case of establishments and undertakings transporting hazardous waste which must keep such records for at least 12 months.***

Documentary evidence that the management operations have been carried

##### *Amendment*

2. For hazardous waste, the records shall be preserved for at least ***five years.***

Documentary evidence that the management operations have been carried

out shall be supplied at the request of the competent authorities or of a previous holder.

out shall be supplied at the request of the competent authorities or of a previous holder.

***Member States shall ensure that the national competent authorities keep a register of all establishments and undertakings referred to in Chapter IV, and may require those establishments and undertakings to provide reports.***

*(Reinstatement of amendment 74 of first reading)*

#### *Justification*

*Amendment adopted by Parliament at first reading (amendment 74). Parliament gives a high priority to ensuring that the repeal of the Hazardous Waste Directive does not mean any lowering of standards of protection. Hazardous waste treatment as well as transports of hazardous wastes are serious matters. Records for both should be kept for five years to allow sufficient traceability. All establishments or undertakings dealing with waste should be recorded in a register.*

### **Amendment 78**

#### **Council common position**

#### **Article 34 – paragraph 4 a (new)**

##### *Council common position*

##### *Amendment*

***4a. Not later than ...\*, the European Parliament and the Council shall, on the basis of a Commission report accompanied by a proposal, review the formula for the incineration facilities referred to in Annex II in the footnote to R1.***

***The Commission report shall be compiled on the basis of notifications by the Member States of the incineration facilities declared as recovery facilities on their territory using the formula in Annex II in the footnote to R1. The Commission report shall review whether the formula has had the anticipated effect and created a crucial incentive for building and operating more incineration facilities with high energy efficiency.***

*In order for the competent authority to declare the facility a recovery or disposal facility on the basis of the formula in Annex II in the footnote to R1, the operator of the facility shall indicate in particular how much purchased energy is required for the waste treatment and the form and quantity of energy emitted (electric and thermal).*

*\*Two years after the entry into force of this Directive.*

#### *Justification*

*Based on the underlying aim of amendment 83 that was adopted at first reading and sought to delete the energy efficiency formula, this compromise should above all lead to transparency regarding the classification of incineration facilities as recovery facilities and also review the formula to see whether the desired effect is also achieved.*

#### **Amendment 79**

##### **Council common position**

##### **Article 35 -paragraph 1 - subparagraph 1**

###### *Council common position*

1. The Commission may develop guidelines for the interpretation of the definitions of recovery and disposal **in points (14) and (18) of Article 3.**

###### *Amendment*

1. The Commission may develop guidelines for the interpretation of the definitions of recovery and disposal.

#### *Justification*

*In accordance with article 20.4, “ it shall be a condition of any permit covering incineration or co-incineration with energy recovery that the recovery of energy is to take place with a high level of energy efficiency.” To this end, an energy efficiency formula should be published as technical guidance to be applied to ALL incineration facilities, irrelevant as to whether they are classed as recovery or disposal.*

#### **Amendment 80**

**Council common position**  
**Annex I – point D 7**

*Council common position*

*Amendment*

***D 7 Release to seas/oceans including sea-bed insertion***      ***deleted***

*Justification*

*EP Amendment at first Reading. Releasing or dumping of waste into the sea should be prohibited because it is unsafe in the long term.*

## EXPLANATORY STATEMENT

At its first reading, the European Parliament adopted some important amendments to the draft directive. It will now insist on their survival in the second reading.

Key amendments in this category were the introduction of targets for recycling and waste prevention, and the insistence on a five-stage waste hierarchy as a general rule.

The Council has erased all reference to targets but the rapporteur has restored the Parliament's amendments in a modified form, having consulted the Commission. The changes are designed to make the texts more acceptable to the Council, and, in the case of the waste prevention target and industrial waste recycling target, to take account of the need to proceed on a sound statistical base. In the view of the rapporteur and of the Committee, it would be wrong to miss this opportunity to ensure that this directive does more than supply a set of definitions. It is important that there is a real link between it and the aspirations about recycling and prevention set out in the Thematic Strategy on Waste. Without the targets no such link really exists.

There will no doubt be another dispute between the Parliament and the Council on the extent to which the 5 stage waste hierarchy applies and how departures from it may take place. The Parliament wants the hierarchy to apply as a "general rule" and the Council prefers the words "guiding principle". The rapporteur is not wholly convinced that in the dust of battle at local level the fine distinctions between the two phrases will always be perceived. The key aspect of the issue is that the directive must make clear that departures from the hierarchy cannot take place casually but must be done as part of an ordered process. The original Parliament amendment made the process of departure unduly complex: the rapporteur has simplified it on the basis that national procedures regarding public involvement must apply.

One important aim of the directive is to draw a clear distinction between what is considered "recovery" and what is "disposal" of waste, since Court of Justice judgements put the question in doubt. The amendments adopted at first reading included a definition of "recovery" that would extend the designation to energy from waste plants fulfilling certain energy efficiency criteria: first reading amendments hostile to the concept of securing energy from waste were not adopted. But an amendment was adopted which deleted the draft energy efficiency formula in Annex II. This would have been the yardstick for determining which energy from waste plants could qualify as "recovery" operations.

The rapporteur believes that energy from waste plants can play an important part in dealing with residual waste, which might otherwise go to landfill. She also sees waste as a potentially important fuel at a time when the EU is facing an energy crisis and is increasingly dependent on insecure foreign sources of fuel. Our waste is at least home-grown. Heat and power can be recovered from it. The experience of a number of member states shows that energy from waste can complement recycling and not drive it out. It would surely be a desirable development to apply an energy efficiency formula which "recovery" plants must comply with. Above all such a formula would be a crucial incentive to those building new plants to give priority to energy efficiency.

But it is clear to the rapporteur that there are some MEP colleagues who are opposed fundamentally to the idea of energy from waste plants and who will never vote for them in any shape or form. There are other MEPs, mainly from countries still in the early stages of

diverting their waste from landfill, who fear that energy from waste could become the predominant waste management process in their countries, and that it would then discourage investment in recycling, re-use and prevention.

This is where the Parliament's insistence on the adoption of recycling and prevention targets is so important. The member states want MEPs to recognise that energy from waste can qualify as "recovery". To win this argument, they need to understand that MEPs will only vote to accept this IF they have the assurance that recycling and prevention targets will be included in the directive. Such targets are an insurance policy against energy from waste becoming the dominant means of waste management.

At its first reading the Parliament adopted improvements to the Commission's proposals for turning properly treated waste into a recycled product. MEPs were concerned to point the way more clearly towards the need for legislative proposals, under the "end of waste" heading, for specifications for compost, aggregates, paper, glass, metal, end of life tyres and waste textiles. In all these cases, clarifying what rules apply would greatly help the move to recycling. It is a shame that at this point the Council lost its nerve and pushed the issue into the recitals. The rapporteur wants more urgent concrete action and has brought the matter back into the text of the directive.

The Council has been bold on the issue of by-products and has included a definition in article 4. Those lobbying the Parliament are completely split on the issue. The rapporteur believes that this chance to settle on a definition should be seized and not postponed to an unknown date.

The directive takes over two existing directives- on hazardous waste and on waste oils. Many colleagues were uneasy that too many aspects of the existing hazardous waste directive were not being carried over into the waste framework directive. The rapporteur has therefore proposed to reinstate some of the amendments proposed at first reading to remedy this. When the directive first appeared, it looked as if it might damage the interests of waste oil regenerators: the rapporteur is satisfied that the Common Position now strikes the right notes on this issue. The rapporteur welcomes the Council's text on biowaste, and draws attention to the minor additions which, she feels, should still be made on the subject of producer responsibility

The rapporteur hopes that the directive that finally emerges will be sufficiently clear to avoid further recourse to the European Court of Justice. Safe and sustainable waste management is an important issue for all of us. We really must try to get it right this time.

## PROCEDURE

<b>Title</b>	Revision of the framework directive on waste
<b>References</b>	11406/4/2007 – C6-0056/2008 – 2005/0281(COD)
<b>Date of Parliament's first reading – P number</b>	13.2.2007                      T6-0029/2007
<b>Commission proposal</b>	COM(2005)0667 - C6-0009/2006
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<b>Rapporteur(s)</b> Date appointed	Caroline Jackson 21.2.2006
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<b>Date adopted</b>	8.4.2008
<b>Result of final vote</b>	+:                      43 -:                      0 0:                      14
<b>Members present for the final vote</b>	Adamos Adamou, Georgs Andrejevs, Margrete Auken, Pilar Ayuso, Irena Belohorská, Johannes Blokland, John Bowis, Frieda Brepoels, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Matthias Groote, Cristina Gutiérrez-Cortines, Satu Hassi, Gyula Hegyi, Marie Anne Isler Béguin, Caroline Jackson, Dan Jørgensen, Christa Kläß, Eija-Riitta Korhola, Holger Krahmer, Urszula Krupa, Marie-Noëlle Lienemann, Peter Liese, Jules Maaten, Linda McAvan, Roberto Musacchio, Riitta Myller, Péter Olajos, Miroslav Ouzký, Vittorio Prodi, Dagmar Roth-Behrendt, Guido Sacconi, Richard Seeber, Kathy Sinnott, Bogusław Sonik, Maria Sornosa Martínez, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Anja Weisgerber, Glenis Willmott
<b>Substitute(s) present for the final vote</b>	Inés Ayala Sender, Bairbre de Brún, Milan Gaľa, Erna Hennicot-Schoepges, Anne Laperrouze, Johannes Lebech, Kartika Tamara Liotard, Bart Staes
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Jean-Pierre Audy