

Circular Economy Proposal for a Directive amending Directive 2008/98/EC on Waste

Parliamentary Draft Report of Simona Bonafè, MEP

The European Aggregates Industry has embraced the imperative of achieving maximum efficiency in all stages of the life-cycle of material production and consumption. UEPG Members are already contributing to the Circular Economy through excellence in daily operations, optimising the use of the primary aggregate reserves, maximising recycling and seeking to move it up the value chain and achieving high quality restoration of extraction sites to 'recycle land' and protect and enhance nature. Whilst these behaviours demonstrate the industry's commitment to sustainable development and the Circular Economy, primary resources and reserves will continue to supply the vast majority of future demand for aggregates, as even those Member States who have virtually maximised the use of recyclable material have demonstrated. UEPG, the European Aggregates Association, supports the European Commission's ongoing project to develop an EU protocol for the Management of Construction and Demolition Waste and is actively contributing to it.

- ▶ UEPG supports recycling when environmentally, economically and technically feasible.
- ▶ Recycled Aggregates need to be fit for purpose.
- ▶ Experience demonstrates that even highest recycling rates achieved substitute only 20% of the total aggregates demand.

UEPG welcomes the European Parliament's Rapporteur Report of Simona Bonafè MEP (S&D, Italy), on the proposal for a Directive amending Directive 2008/98/EC on waste, and especially:

- Amendment 9, which encourages the development of end-of-waste criteria;
- Amendment 52, which clarifies the notion of "suitable waste" for backfilling;
- Amendment 142, which clarifies the notion of waste used for recovery operations.

Furthermore, UEPG would like to propose the following amendments (right column) to the proposals made by the European Commission or by Ms Bonafè (left column):

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DEFINITIONS

European Commission

(10) Article 11, paragraph 1, new sub-paragraph (page 18)

Text proposed by the Commission

Member States shall take measures to promote sorting systems for construction and demolition waste and for at least the following: wood, **aggregates**, metal, glass and plaster.

UEPG proposed amendment

Member States shall take measures to promote sorting systems for construction and demolition waste and for at least the following: wood, metal, glass, **plastics**, plaster **and hazardous wastes**.

Justification

UEPG has long been advocating for a more efficient deconstruction and sorting of construction and demolition waste to obtain higher quality and purer recycled aggregates. However, "aggregates" should be deleted from the materials listed in this paragraph, as aggregates are according to the European standard EN 933-11, table 2 do not belong to that category. Natural aggregates are usually mixed with recycled aggregates to improve the grading curve and constitute a product in line with product standards (mainly EN 12620). While aggregates are produced through a production process, the materials listed in this paragraph do refer to construction and demolition waste with the exception of unbound base layers. Sorting systems of plastics from construction and demolition waste are very relevant for their recovery and for making recycled aggregates production possible increasing their quality. To separate hazardous waste is a key issue to avoid mixtures with the other construction and demolition wastes that could make waste recycling more complex or even environmental and technically impossible.

European Commission

(2) Article 3, (f) new 17b (page 14)

Text proposed by the Commission

"backfilling" means any recovery operation where suitable waste is used for reclamation purposes **in excavated areas** or for engineering purposes in landscaping **or construction** instead of other non-waste materials which would otherwise have been used for that purpose.

UEPG proposed amendment

"backfilling" means any recovery operation where suitable waste is used for reclamation purposes or for engineering purposes in landscaping in **permitted extractive sites** instead of other non-waste materials which would otherwise have been used for that purpose.

Justification

For the European Aggregates Industry, "backfilling", which is the filling of an excavation void, remains an essential element to restore or rehabilitate active or former extractive sites. For the non-energy extractive industry, there are strict procedures to define projects, rehabilitation and closure of sites under Impact Assessment Schemes with the permanent supervision of Extractive Industry Authorities and/or Environmental Authorities, preventing the risk of bad management.



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The Commission Decision (2011/753/EU) of 18 November 2011 establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC reiterates that backfilling is rightly inserted in the 70% target of construction and demolition waste recycling, showing it has a high ranking in the waste hierarchy. UEPG welcomes this definition of “backfilling” but suggest clarifying the ambiguous term “suitable”. It should also be understood that while the Directive on the Management of waste from extractive industries (2006/21/EC) covering waste from the extractive site, the waste considered in the Waste Framework Directive refers to waste from outside the extractive site.

European Commission

(2) Article 3, (f) new 17c (page 13)

Text proposed by the Commission

UEPG proposed amendment

“inert waste” means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health.

Justification

UEPG suggest, for clarity, adding the definition of “inert waste”. This definition is relevant and necessary since inert rocky materials are a significant part of construction and demolition wastes.

ECONOMIC INSTRUMENTS

European Commission

(3) In Article 4, paragraph 3 (page 14)

Text proposed by the Commission

Member States shall make use of adequate **economic instruments** to provide incentives for the application of the waste hierarchy.

UEPG proposed amendment

Member States shall make use of adequate instruments to provide incentives for the application of the waste hierarchy.

Justification

UEPG supports the waste hierarchy and promotes the long life-span of its products used in construction lasting for more than 100 years. At the end of the product life, the construction material should be recycled when environmentally, economically and technically feasible. Recycling rates can be further increased through quality assurance, material flow analysis, sustainable transport policies, knowledge transfer and other tools. Some of the EU Member States with the highest recycling rates for construction and demolition waste have achieved this without economic instruments. These good practice examples could be distributed to increase the uptake of secondary materials.

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European Parliament Amendment 111

*Text proposed by the European Parliament
Environment Committee*

(ab) in paragraph 1, the following subparagraph 3a is inserted:

"Member States shall **make use of regulatory and economic instruments in order to** incentivise the uptake of secondary raw materials. Those measures shall encourage, inter alia, the use of recycled content in products and green public procurement criteria.";

UEPG proposed amendment

(ab) in paragraph 1, the following subparagraph 3a is inserted:

"Member States shall incentivise the uptake of secondary raw materials. Those measures shall encourage, inter alia, the use of recycled content in products and green public procurement criteria.";

Justification

Recycling rates can be further increased through quality assurance, material flow analysis, sustainable transport policies, knowledge transfer and other tools. Some of the EU Member States with the highest recycling rates for construction and demolition waste have achieved this without economic instruments. These good practice examples could be distributed to increase the uptake of secondary materials.

European Parliament Amendment 6 Recital 7

*Text proposed by the European Parliament Industry
Committee*

(7) Member States should put in place adequate incentives for the application of the waste hierarchy, **in particular, by means of financial, fiscal and regulatory incentives** aimed at achieving the waste prevention and recycling objectives of this Directive, **such as landfill and incineration charges, landfill ban, pay as you throw schemes, extended producer responsibility schemes, direct price support schemes, internalisation of positive and negative externalities linked to recycling and primary raw materials, policy of zero VAT on the repair and sale of second-hand products, mandatory green public procurement and incentives for local authorities.**

UEPG proposed amendment

(7) Member States should put in place adequate incentives for the application of the waste hierarchy, aimed at achieving the waste prevention and recycling objectives of this Directive.

Justification

Recycling rates can be further increased through quality assurance, material flow analysis, sustainable transport policies, knowledge transfer and other tools. Some of the EU Member States with the highest recycling rates for construction and demolition waste have achieved this without economic instruments. These good practice examples could be distributed to increase the uptake of secondary materials.

SMART REGULATION

European Parliament Amendment 6 Recital 7 a (new)

Text proposed by the European Parliament Environment Committee

(7a)Based on Member State notifications and developments in the case-law of the Court of Justice of the European Union, the Commission should **periodically** review the Guidance on the interpretation of the key provisions of Directive 2008/98/EC, in order to improve, align and harmonise the concepts of waste and by-products across Member States.

UEPG proposed amendment

(7a)Based on Member State notifications and developments in the case-law of the Court of Justice of the European Union, the Commission should review **every five years** the Guidance on the interpretation of the key provisions of Directive 2008/98/EC, in order to improve, align and harmonise the concepts of waste and by-products across Member States.

Justification

UEPG welcomes the idea to improve and harmonise the legislation which allows a level-playing field. However, industry needs legal certainty and a certain amount of time is needed to implement properly the agreed concepts before reviewing them. Therefore a minimum of 5 years should be kept.

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Extraction and extractive waste

European Parliament Amendment 16 Recital 13

Text proposed by the European Parliament Environment Committee

(13) Industrial, certain parts of commercial waste **and extractive waste** are extremely diversified in terms of composition and volume, and very different depending on the economic structure of a Member State, the structure of the industry or commerce sector that generates the waste and the industrial or commercial density in a given geographical area. However, for most industrial **and extractive waste**, an industry-oriented approach using Best Available Techniques reference documents 16 and similar instruments to address the specific issues related to the management of a given type of waste is not a long term effective solution to reach circular economy objectives. As industrial and commercial waste are covered by the requirements of Directive 94/62/EC and Directive 2008/98/EC, they should also be covered by recycling obligations similar to those which apply to municipal waste. For that reason, the Commission should set up by 31 December 2018 recycling targets for commercial waste and industrial waste to be met by 2025 and 2030.

¹⁶ Industrial activities are covered by Best Available Techniques (BAT) reference documents (BREFs) drawn up under the Industrial Emissions Directive 2010/75/EU (OJ L 334, 17.12.2010, p. 17) that include information on the prevention of resource use and waste generation, re-use, recycling and recovery. The on-going revision of the BREFs and the adoption by the Commission of BAT Conclusions will strengthen the impact of these BREFs on industrial practices leading to further resource efficiency gains and increased waste recycling and recovery.

UEPG proposed amendment

(13) Industrial, certain parts of commercial waste are extremely diversified in terms of composition and volume, and very different depending on the economic structure of a Member State, the structure of the industry or commerce sector that generates the waste and the industrial or commercial density in a given geographical area. However, for most industrial waste, an industry-oriented approach using Best Available Techniques reference documents 16 and similar instruments to address the specific issues related to the management of a given type of waste is not a long term effective solution to reach circular economy objectives. As industrial and commercial waste are covered by the requirements of Directive 94/62/EC and Directive 2008/98/EC, they should also be covered by recycling obligations similar to those which apply to municipal waste. For that reason, the Commission should set up by 31 December 2018 recycling targets for commercial waste and industrial waste to be met by 2025 and 2030.

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Justification

Extractive waste is already addressed in a Directive dedicated fully to this topic, Directive 2006/21/EC. Moreover, the implementation of this Directive is currently being assessed by both the European Commission and the European Parliament. The BREF on Extractive Waste is currently being reviewed. It would be premature to add legislative proposals at this stage.

To include additional provisions on extractive waste, which has its own set of legislation, into the Waste Framework Directive would create confusion in the scopes of the different pieces of legislation.

European Parliament Amendment 37 Recital 28 d (new)

Text proposed by the European Parliament Environment Committee

(28d) In order to limit the negative environmental impact of different materials and to conserve natural resources, it is necessary to take additional measures focusing on the whole life cycle of products, including sustainable materials extraction, ecological product design, eco-efficient production and sustainable consumption suitable to keep resources which become waste in a closed loop.

UEPG proposed amendment

(28d) In order to limit the **potential** negative environmental impact of different materials and to conserve natural resources, it is necessary to take additional measures focusing on the whole life cycle of products, including sustainable **and local** materials extraction, ecological product design, eco-efficient production and sustainable consumption suitable to keep resources which become waste in a closed loop.

Justification

If undertaken in a sustainable and responsible manner, the environmental impacts of extraction may not be negative. Local access to resources is an indispensable component to sustainable extraction.

European Parliament Amendment 120

Text proposed by the European Parliament Environment Committee

3 c. By 31 December 2018, the Commission shall examine the possibility of setting up preparing for re-use and recycling targets which apply to commercial waste, non-hazardous industrial waste and other waste streams to be met by 2025 and 2030. To that end, the Commission shall draw up a report, accompanied by a legislative proposal, if appropriate, which shall be sent to the European Parliament and the Council.

UEPG proposed amendment

3 c. By 31 December 2018, the Commission shall examine the possibility of setting up preparing for re-use and recycling targets which apply to commercial waste, non-hazardous industrial waste **not covered by existing legislation**, and other waste streams to be met by 2025 and 2030. To that end, the Commission shall draw up a report, accompanied by a legislative proposal, if appropriate, which shall be sent to the European Parliament and the Council.

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Justification

Extractive waste is already addressed in a Directive dedicated fully to this topic, Directive 2006/21/EC. Moreover, the implementation of this Directive is currently being assessed by both the European Commission and the European Parliament. The BREF on Extractive Waste is currently being reviewed. It would be premature to add legislative proposals at this stage.

To include additional provisions on extractive waste, which has its own set of legislation, into the Waste Framework Directive would create confusion in the scopes of the different pieces of legislation.

Measuring Resource Efficiency: indicators and targets

European Parliament Amendment 38 Recital 28 e (new)

Text proposed by the European Parliament Environment Committee

(28e) Improving resource use could bring substantial net savings for EU businesses, public authorities and consumers while reducing total annual greenhouse gas emissions. For that reason, the Commission should propose, by the end of 2018, a lead indicator and a dashboard of sub-indicators on resource efficiency in order to monitor the progress towards the target of increasing resource efficiency at Union level **by 30 % by 2030 compared with 2014 levels.**

UEPG proposed amendment

(28e) Improving resource use could bring substantial net savings for EU businesses, public authorities and consumers while reducing total annual greenhouse gas emissions. For that reason, the Commission should propose, by the end of **2020, sector-specific indicators on resource efficiency** in order to monitor the progress towards the target of increasing resource efficiency at Union level.

Justification

UEPG opposes the lead indicator based on weight which does not reflect the environmental impact. Further thoughts need to be put towards finding the right measurement of resource efficiency.

An increase of resource efficiency can only be measured against robust indicators of resource efficiency and against a neutral baseline, 2014 still being a low point in European economies.

Resource efficiency needs a sustainable approach and therefore to take into account the economic, environmental and social aspects of the circular economy.



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European Parliament Amendment 121

*Text proposed by the European Parliament
Environment Committee*

3d. By 31 December 2018, the Commission shall consider the possibility of setting up preparing for re-use and recycling targets which apply to specific construction and demolition waste **to be met by 2025 and 2030**. To that end, the Commission shall draw up a report, accompanied by a legislative proposal, if appropriate, which shall be sent to the European Parliament and the Council.

UEPG proposed amendment

3d. By 31 December 2018, the Commission shall consider the possibility of setting up preparing for re-use and recycling targets which apply to specific construction and demolition waste. To that end, the Commission shall draw up a report, accompanied by a legislative proposal, if appropriate, which shall be sent to the European Parliament and the Council.

Justification

As so many Member States are still struggling to meet the current 70% target, it might be premature to set more ambitious targets which might be detrimental to the quality of recycling.

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Circular Economy

Proposal for a Directive amending Directive 1999/31/EC on the Landfill of Waste

European Commission

(1) Article 2, (e)

Text proposed by the Commission

(e) "inert waste" means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. **The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater;**

UEPG proposed amendment

"inert waste" means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health.

Justification

UEPG suggest deleting the last sentence which is redundant with the first two ones already outlining the characteristics. The last sentence is highly technical and subject to interpretation and such considerations should not be in the Directive but developed at a later stage.

Facts & Figures

Aggregates are sand, gravel and crushed rock and may be natural, manufactured or recycled. Natural aggregate are from mineral sources which have been subjected to nothing more than mechanical processing. Manufactured aggregates are of mineral origin resulting from an industrial process involving thermal or other modification. Recycled aggregates are resulting from the processing of inorganic material previously used in construction. Aggregates are used to construct Europe's essential infrastructure including homes, roads, railways, schools and hospitals. More than 2.6 billion tonnes per year of aggregates are produced by 15,000 companies (the majority of which are SMEs) on 25,000 extraction sites, providing jobs for more than 230,000 direct and indirect employees. UEPG now represents national aggregates associations and producers in 29 European countries.