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Closing the loop - An EU action plan for the Circular Economy

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Introduction

The transition to a more circular economy, where the value of products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimised, is an essential contribution to the EU's efforts to develop a sustainable, low carbon, resource efficient and competitive economy. Such transition is the opportunity to transform our economy and generate new and sustainable competitive advantages for Europe.

The circular economy will boost the EU's competitiveness by protecting businesses against scarcity of resources and volatile prices, helping to create new business opportunities and innovative, more efficient ways of producing and consuming. It will create local jobs at all skills levels and opportunities for social integration and cohesion. At the same time, it will save energy and help avoid the irreversible damages caused by using up resources at a rate that exceeds the Earth's capacity to renew them in terms of climate and biodiversity, air, soil and water pollution. A recent report also points at the wider benefits of the circular economy¹, including in lowering current carbon dioxide emissions levels. Action on the circular economy therefore ties in closely with key EU priorities, including jobs and growth, the investment agenda, climate and energy, the social agenda and industrial innovation, and with global efforts on sustainable development.

Economic actors, such as business and consumers, are key in driving this process. Local, regional and national authorities are enabling the transition, but the EU also has a fundamental role to play in supporting it. The aim is to ensure that the right regulatory framework is in place for the development of the circular economy in the single market, and to give clear signals to economic operators and society at large on the way forward with long term waste targets as well as a concrete, broad and ambitious set of actions, to be carried out before 2020. Action at EU level will drive investments and create a level playing field, remove obstacles stemming from European legislation or inadequate enforcement, deepen the single market, and ensure favourable conditions for innovation and the involvement of all stakeholders.

The legislative proposals on waste, adopted together with this action plan, include long-term targets to reduce landfilling and to increase preparation for reuse and recycling of key waste streams such as municipal waste and packaging waste. The targets should lead Member States gradually to converge on best-practice levels and encourage the requisite investment in waste management. Further measures are proposed to make implementation clear and simple, promote economic incentives and improve extended producer responsibility schemes.

By stimulating sustainable activity in key sectors and new business opportunities, the plan will help to unlock the growth and jobs potential of the circular economy. It includes

¹ *Growth within: a circular economy vision for a competitive Europe*, report by the Ellen MacArthur Foundation, the McKinsey Centre for Business and Environment and the Stiftungsfonds für Umweltökonomie und Nachhaltigkeit (SUN), June 2015.

comprehensive commitments on ecodesign, the development of strategic approaches on plastics and chemicals, a major initiative to fund innovative projects under the umbrella of the EU's Horizon 2020 research programme, and targeted action in areas such as plastics, food waste, construction, critical raw materials, industrial and mining waste, consumption and public procurement. Other key legislative proposals on fertilisers and water reuse will follow. Finally, horizontal enabling measures in areas such as innovation and investment are included to stimulate the transition to a circular economy. The proposed actions support the circular economy in each step of the value chain – from production to consumption, repair and remanufacturing, waste management, and secondary raw materials that are fed back into the economy. The actions proposed will be taken forward in line with Better Regulation principles, and subject to appropriate consultation and impact assessment.

The action plan focusses on action at EU level with high added value. Making the circular economy a reality will however require long-term involvement at all levels, from Member States, regions and cities, to businesses and citizens. Member States are invited to play their full part in EU action, integrating and complementing it with national action. The circular economy will also need to develop globally. Increased policy coherence in internal and external EU action in this field will be mutually reinforcing and essential for the implementation of global commitments taken by the Union and by EU Member States, notably the U.N. 2030 Agenda for Sustainable Development and the G7 Alliance on Resource Efficiency. This action plan will be instrumental in reaching the Sustainable Development Goals (SDGs) by 2030, in particular Goal 12 of ensuring sustainable consumption and production patterns.

1. Production

A circular economy starts at the very beginning of a product's life. Both the design phase and production processes have an impact on sourcing, resource use and waste generation throughout a product's life.

1.1. Product design

Better design can make products more durable or easier to repair, upgrade or remanufacture. It can help recyclers to disassemble products in order to recover valuable materials and components. Overall, it can help to save precious resources. However, current market signals appear insufficient to make this happen, in particular because the interests of producers, users and recyclers are not aligned. It is therefore essential to provide incentives for improved product design, while preserving the single market and competition, and enabling innovation.

Electrical and electronic products are particularly significant in this context. Their reparability can be important to consumers, and they can contain valuable materials that should be made easier to recycle (e.g. rare earth elements in electronic devices). In order to promote a better

design of these products, the Commission will emphasise circular economy aspects in future product design requirements under the Ecodesign Directive², the objective of which is to improve the efficiency and environmental performance of energy-related products. To date, ecodesign requirements have mainly targeted energy efficiency³; in the future, issues such as reparability, durability, upgradability, recyclability, or the identification of certain materials or substances will be systematically examined. The Commission will analyse these issues on a product by product basis in new working plans and reviews, taking into account the specificities and challenges of different products (such as innovation cycles) and in close cooperation with relevant stakeholders.

As a first step, and under the framework of the Ecodesign directive, the Commission has developed and will propose shortly to Member States mandatory product design and marking requirements to make it easier and safer to dismantle, reuse and recycle electronic displays (e.g. flat computer or television screens).

The Commission is also proposing to encourage better product design by differentiating the financial contribution paid by producers under extended producer responsibility schemes on the basis of the end-of-life costs of their products. This should create a direct economic incentive to design products that can be more easily recycled or reused.

Finally, the Commission will examine options and actions for a more coherent policy framework for the different strands of work on EU product policy⁴ in their contribution to the circular economy.

- The Commission will promote the reparability, upgradability, durability, and recyclability of products by developing product requirements relevant to the circular economy in its future work under the Ecodesign Directive, as appropriate and taking into account the specificities of different product groups. The Ecodesign working plan for 2015-2017 will elaborate on how this will be implemented. The Commission will shortly also propose Ecodesign requirements for electronic displays.

- The revised legislative proposals on waste creates economic incentives for better product design through provisions on extended producer responsibility.

- The Commission will examine options and actions for a more coherent policy framework of the different strands of work of its product policy in their contribution to the circular economy.

1.2. Production processes

Even for products or materials designed in a smart way, inefficient use of resources in production processes can lead to lost business opportunities and significant waste generation.

² Directive 2009/125/EC. This Directive covers all energy-related products.

³ Together with the energy labelling measures in place, it is estimated that the Ecodesign Directive will save 175 Mtoe of primary energy by 2020.

⁴ e.g. Ecodesign, Energy Labelling, Ecolabel, Green Public Procurement, and other relevant product legislation.

Primary raw materials, including renewable materials, will continue to play an important role in production processes, even in a circular economy. In this context, attention must be paid to the environmental and social impacts of their production, both in the EU and in non-EU countries. The Commission therefore promotes the sustainable sourcing of raw material globally, for example through policy dialogues, partnerships and its trade⁵ and development policy. Industry has a key role to play by making specific commitments to sustainable sourcing and cooperating across value chains.

Each industry sector is different when it comes to resource use, waste generation and management. Therefore, the Commission will further promote best practices in a range of industrial sectors through the 'best available technique reference documents' (BREFs) that Member States have to reflect when issuing permit requirements for industrial installations, and promote best practices on mining waste. The Commission is also helping SMEs to benefit from the business opportunities of increased resource efficiency with the creation of the European Resource Efficiency Excellence Centre.⁶ Facilitating substitution of chemicals of concern or supporting SME access to innovative technologies⁷ are examples of actions in this area. Improving the efficiency and uptake of the EU Eco-Management and Audit Scheme (EMAS)⁸ and the pilot programme on environmental technology verification (ETV)⁹ could also benefit businesses and SMEs in particular.

In addition, it is important to promote innovative industrial processes. For example, industrial symbiosis allows waste or by-products of one industry to become inputs for another. In its revised proposals on waste, the Commission proposes elements to facilitate this practice, and will engage with Member States to help ensure a common understanding of the rules on by-products. The reuse of gaseous effluents¹⁰ is another example of innovative process. Remanufacturing¹¹ is another high-potential area: it is already common practice in certain industries, such as vehicles or industrial machinery, but could be applied to new sectors. The EU is supporting such promising developments through its research and innovation financing programme, Horizon 2020,¹² and through Cohesion Policy funds.¹³

- The Commission will include guidance on best waste management and resource efficiency practices in industrial sectors in Best Available Techniques reference documents (BREFs)¹⁴ and will issue guidance and promote best practices on mining waste.

⁵ In particular the "Trade and investment for all" strategy adopted in October 2015.

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0440>

⁷ In order to facilitate SME's access to technological service centres in the area of Key Enabling Technologies

⁸ Following its ongoing Fitness Check

⁹ http://ec.europa.eu/environment/etv/etv_preprog.htm

¹⁰ In particular CO₂.

¹¹ A series of manufacturing steps acting on an end-of-life part or product in order to return it to like-new or better performance, with corresponding warranty.

¹² Call for Factories of the Future, 2014 – call on industrial symbiosis, 2014

¹³ http://ec.europa.eu/regional_policy/index.cfm/en/information/legislation/guidance/

¹⁴ This will take place in the context of the regular planned reviews of the BREFs

- The Commission is proposing (in the revised legislative proposals on waste) to clarify rules on by-products to facilitate industrial symbiosis and help create a level-playing field across the EU.

2. Consumption

The choices made by millions of consumers can support or hamper the circular economy. These choices are shaped by the information to which consumers have access, the range and prices of existing products, and the regulatory framework. This phase is also crucial for preventing and reducing the generation of household waste.

Faced with a profusion of labels or environmental claims, EU consumers often find it difficult to differentiate between products and to trust the information available. Green claims may not always meet legal requirements for reliability, accuracy and clarity.¹⁵ The Commission is working with stakeholders to make green claims more trustworthy, and will ensure better enforcement of the rules in place, including through updated guidance on unfair commercial practices¹⁶. It is testing the Product Environmental Footprint,¹⁷ a methodology for measuring environmental performance, and will explore its use to measure or communicate environmental information. The voluntary EU Ecolabel identifies products that have a reduced environmental impact throughout their lifecycle. The Commission will examine how to increase its effectiveness and contribution to the circular economy.¹⁸

Earlier this year, the Commission proposed an improved labelling system for the energy performance of household appliances and other energy-related products, which will help consumers choose the most efficient products.¹⁹ The proposed system will also allow for the displaying to consumers of information on the environmental performance, including durability, of energy-related products²⁰.

Price is a key factor affecting purchasing decisions, both in the value chain and for final consumers. Member States are therefore encouraged to provide incentives and use economic instruments, such as taxation, to ensure that product prices better reflect environmental costs. Aspects relating to guarantees, such as the legal guarantee period and the reversal of the burden of proof,²¹ are also an important part of the consumption puzzle, as they can protect consumers against defective products and contribute to products' durability and reparability, preventing them from being thrown away. A two year legal guarantee exists in the EU for

¹⁵ See consumer market study on environmental claims for non-food products:

http://ec.europa.eu/consumers/consumer_evidence/market_studies/environmental_claims/index_en.htm

¹⁶ In the context of Directive 2005/29/EC on unfair business-to-consumer commercial practices

¹⁷ COM/2013/0196 final. Currently being tested on pilots projects. Subject to pilots' results, the Commission will consider the further use of the Product Environmental Footprint methodology.

¹⁸ Following its ongoing Fitness Check

¹⁹ COM(2015)341

²⁰ Based on data that are measurable by market surveillance authorities, and without significant negative impact on the clear intelligibility and effectiveness of the label for customers

²¹ Under Directive 99/44/EC, within the first six months after delivery, the seller has to prove that no lack of conformity existed at the time of delivery. Subsequently, the burden of proof is on the buyer.

physical goods, but problems are still encountered in its implementation. The Commission will address issues such as these, notably in the context of its upcoming proposal for online sales of goods. It will also evaluate key pieces of consumer legislation and consider possible improvements²².

Once a product has been purchased, its lifetime can be extended through reuse and repair, hence avoiding wastage. The reuse and repairs sectors are labour-intensive and therefore contribute to the EU's jobs and social agenda. Currently, certain products cannot be repaired because of their design, or because spare parts or repair information are not available. Future work on ecodesign of products (see section 1.1) will help to make products more durable and easier to repair: in particular, requirements concerning the availability of spare parts and repair information (e.g. through online repair manuals) will be considered, including through exploring the possibility of horizontal requirements on the provision of repair information. Planned obsolescence practices can also limit the useful lifetime of products. Through an independent testing programme, the Commission will initiate work to detect such practices and ways to address them. In addition, the revised legislative proposals on waste includes new provisions to boost preparation for reuse activities. Member States and regional and local authorities also have an important role in encouraging reuse and repair, and some have already taken initiatives in this area.

Other actions can be taken to reduce the amount of household waste. This is often more effective at national and local level, where it can be better targeted: awareness campaigns and economic incentives²³ have proven particularly effective. The Commission promotes waste prevention and reuse through the exchange of information and best practices and by providing Cohesion Policy funding for projects at local and regional level, including interregional cooperation.

Innovative forms of consumption can also support the development of the circular economy, e.g. sharing products or infrastructure (collaborative economy), consuming services rather than products, or using IT or digital platforms. These new forms of consumption are often developed by businesses or citizens, and promoted at national, regional and local level. The Commission supports these new business and consumption models through Horizon 2020 and through Cohesion Policy funding (see also section 6). As announced in the Single Market Strategy²⁴, it will also develop a European agenda for the collaborative economy.

Public procurement accounts for a large proportion of European consumption (nearly 20% of EU GDP). It can therefore play a key role in the circular economy, and the Commission will encourage this role through its actions on Green Public Procurement²⁵ (GPP), where criteria

²² Under the Fitness Check of consumer legislation announced in the Commission Working Programme 2015 (COM(2014) 910 final – Annex 3).

²³ Such as incentive systems for municipalities or "pay-as-you-throw" schemes, where households (for example) pay according to the amount of non-recyclable waste that they throw away.

²⁴ COM(2015) 550

²⁵ In line with the global Sustainable Development Goal of promoting public procurement practices that are sustainable

are developed at EU level and then used by public authorities on a voluntary basis. First, the Commission will make sure that in future, special emphasis is placed on aspects relevant to the circular economy, such as durability and reparability, when setting out or revising criteria. Secondly, it will support a greater uptake of these criteria by public authorities,²⁶ and reflect on how GPP could be used more widely across the EU, in particular for products or markets that have high relevance for the circular economy. Finally, the Commission will lead by example, by making sure that Green Public Procurement is used as widely as possible in its own procurement, and by reinforcing the use of GPP in EU funding.

- *The Commission will specifically consider proportionate requirements on durability and the availability of repair information and spare parts in its work on Ecodesign, as well as durability information in future Energy Labelling measures.*
- *In the revised waste proposals, the Commission proposes new rules which will encourage reuse activities.*
- *The Commission will work towards better enforcement of the guarantees on tangible products, examine possible options for improvement, and tackle false green claims*
- *The Commission will prepare an independent testing programme under Horizon 2020 to help the identification of issues related to possible planned obsolescence. This work would involve relevant stakeholders as appropriate.*
- *The Commission will take action on Green Public Procurement (GPP), by emphasising circular economy aspects in new or revised criteria, supporting higher uptake of GPP, and leading by example in its own procurement and in EU funding.*

3. Waste management

Waste management plays a central role in the circular economy: it determines how the EU waste hierarchy is put into practice. The waste hierarchy establishes a priority order from prevention, preparation for reuse, recycling and energy recovery through to disposal, such as landfilling. This principle aims to encourage the options that deliver the best overall environmental outcome. The way we collect and manage our waste can lead either to high rates of recycling and to valuable materials finding their way back into the economy, or to an inefficient system where most recyclable waste ends in landfills or is incinerated, with potentially harmful environmental impacts and significant economic losses. To achieve high levels of material recovery, it is essential to send long-term signals to public authorities, businesses and investors, and to establish the right enabling conditions at EU level, including consistent enforcement of existing obligations. All waste should be considered, be it generated by household, businesses, industry and mining (see section 1.2), or the construction sector (see section 5.4).

Today, only around 40% of the waste produced by EU households is recycled. This average masks wide variation between Member States and regions, with rates as high as 80% in some

²⁶ *Inter alia* through targeted training schemes

areas, and lower than 5% in others. The Commission is putting forward new legislative proposals on waste to provide a long-term vision for increasing recycling and reducing the landfilling of municipal waste, while taking account of differences between Member States. These proposals also encourage greater use of economic instruments to ensure coherence with the EU waste hierarchy.

The revised waste proposals also includes increased recycling targets for packaging materials²⁷, which will reinforce the targets on municipal waste and improve the management of packaging waste in the commercial and industrial sectors. More packaging waste (from households and industrial/commercial sources) has been recycled in the EU since the introduction of EU-wide targets for paper, glass, plastics, metal and wood packaging²⁸, and there is potential for more recycling, with both economic and environmental benefits.

To raise levels of high-quality recycling, improvements are needed in waste collection and sorting. Collection and sorting systems are often financed in part by extended producer responsibility schemes, in which manufacturers contribute to product collection and treatment costs. In order to make these schemes more effective, the Commission is proposing minimum conditions on transparency and cost-efficiency. Member States and regions can also use these schemes for additional waste streams such as textiles or furniture.

The revised waste proposals will also address key issues relating to the calculation of recycling rates. This is essential to ensure comparable, high-quality statistics across the EU, and to simplify the current system and encourage higher rates of effective recycling for separately collected waste.

It is also important to address obstacles on the ground. Often, higher recycling rates are limited by administrative capacity, a lack of investment in separate collection and recycling infrastructure and insufficient use of economic instruments (e.g. landfill charges or pay-as-you-throw schemes); the creation of overcapacities in infrastructure to treat residual (including mixed) waste also poses major challenges. The new legislative proposals on waste takes account of these obstacles by combining long-term and interim targets with the possibility for time-extensions for countries that face the biggest challenges in stepping up separate collection and recycling, while requiring an implementation strategy to ensure that progress is made and that implementation gaps are tackled in time. The Commission is also committed to providing technical assistance to Member states experiencing difficulties in implementation and to facilitating exchange of best practices with countries and regions that have successfully improved their waste management. The Commission has already launched a number of compliance promotion initiatives to ensure better implementation of EU waste legislation, including on municipal and hazardous waste and separate collection, and to raise awareness at national level. The ongoing close cooperation with Member States will be

²⁷ In the proposal for metals, separate sub-targets will be introduced for aluminium and ferrous metals.

²⁸ http://ec.europa.eu/environment/waste/packaging/index_en.htm

stepped up in the future and will better link waste legislation with wider actions in support of the circular economy.

EU Cohesion Policy has a key role to play in closing the investment gap for improved waste management and supporting the application of the waste hierarchy²⁹. In the past two decades, these funds have been used widely across the EU to develop waste management infrastructure. For the current (2014-2020) financing programme, ex-ante conditions must be met to ensure that new investments in the waste sector are in line with waste management plans designed by Member States to meet their recycling targets. This means that funding for new landfill will be granted only in exceptional cases (e.g. mainly for non-recoverable hazardous waste) and that funding for new facilities for the treatment of residual waste, such as incineration or mechanical biological treatment, will be granted only in limited and well justified cases, where there is no risk of overcapacity and the objectives of the waste hierarchy are fully respected. In total, it is foreseen that €5.5 billion will be dedicated to waste management in the current financing programme.

Another barrier to higher recycling rates is the illegal transport of waste, both within the EU and to non-EU countries, which often results in economically sub-optimal and environmentally unsound treatment. A revised regulation on waste shipment was adopted in 2014³⁰ which will facilitate the detection of these illegal shipments; the Commission will take further measures to help ensure that it is properly implemented. High-value waste streams, such as end-of-life vehicles, will be targeted specifically, to prevent raw materials leakage.

In addition, in order to foster high-quality recycling in the EU and elsewhere, the Commission will promote the voluntary certification of treatment facilities for certain key types of waste (e.g. electronic waste, plastics).

When waste cannot be prevented or recycled, recovering its energy content is in most cases preferable to landfilling it, in both environmental and economic terms. 'Waste to energy' can therefore play a role and create synergies with EU energy and climate policy, but guided by the principles of the EU waste hierarchy. The Commission will examine how this role can be optimised, without compromising the achievement of higher reuse and recycling rates, and how the corresponding energy potential can best be exploited. To that end, the Commission will adopt a 'waste to energy' initiative in the framework of the Energy Union.

The Commission is adopting, together with this action plan, revised legislative proposals on waste comprising in particular:

- long-term recycling targets for municipal waste and packaging waste, and to reduce landfill*
- provisions to promote greater use of economic instruments*
- general requirements for extended producer responsibility schemes*

²⁹ Including through innovative approaches

³⁰ [Regulation \(EU\) No 660/2014 of 15 May 2014](#)

- simplification and harmonisation of definitions and calculation methods and will step up its work with Member States to improve waste management on the ground, including to avoid overcapacities in residual waste treatment. The Commission will assist Member States and regions to ensure that Cohesion Policy investments in the waste sector contribute to supporting the objectives of the EU waste legislation and are guided by the EU waste hierarchy.

4. From waste to resources: boosting the market for secondary raw materials and water reuse

In a circular economy, materials that can be recycled are injected back into the economy as new raw materials thus increasing the security of supply. These "secondary raw materials" can be traded and shipped just like primary raw materials from traditional extractive resources.

At present, secondary raw materials still account for a small proportion of the materials used in the EU³¹. Waste management practices have a direct impact on the quantity and quality of the materials and therefore actions to improve these practices are crucial (see section 3.). However, other barriers restrict the growth of this important market and the smooth circulation of the materials, and the Commission is developing further analysis on the major obstacles in this context. EU action is particularly important in this area, given the Single Market implications and the links with existing EU legislation.

One of the barriers faced by operators who want to use secondary raw materials is uncertainty as to their quality. In the absence of EU-wide standards, it can be difficult to ascertain impurity levels or suitability for high-grade recycling (e.g. for plastics). The development of such standards should increase trust in secondary raw materials and in recycled materials, and help support the market. The Commission will therefore launch work on EU-wide quality standards for secondary raw materials where needed, in consultation with the industries concerned. Moreover, the revised legislative proposals on waste establish more harmonised rules to determine when a secondary raw material should no longer be legally considered as 'waste', by clarifying existing rules on 'end-of-waste'. This will provide operators with more certainty and a level playing field.

Recycled nutrients are a distinct and important category of secondary raw materials, for which the development of quality standards is necessary. They are present in organic waste material, for example, and can be returned to soils as fertilisers. Their sustainable use in agriculture reduces the need for mineral-based fertilisers, the production of which has negative environmental impacts, and depends on imports of phosphate rock, a limited resource. However, the circulation of fertilisers based on recycled nutrients is currently hampered by the fact that rules as well as quality and environmental standards differ across Member States.

³¹ With some exceptions such as steel or paper – e.g. 5% for plastics.

In order to address this situation, the Commission will propose a revision of the EU regulation on fertilisers. This will involve new measures to facilitate the EU wide recognition of organic and waste-based fertilisers, thus stimulating the sustainable development of an EU-wide market.

Water scarcity has worsened in some parts of the EU in recent decades, with damaging effects on our environment and economy. In addition to water-efficiency measures, the reuse of treated wastewater in safe and cost-effective conditions is a valuable but under-used means of increasing water supply and alleviating pressure on over-exploited water resources in the EU. Water reuse in agriculture also contributes to nutrients recycling by substitution of solid fertilisers. The Commission will take a series of actions to promote the reuse of treated wastewater, including legislation on minimum requirements for reused water.

Another very important issue for the development of secondary raw materials markets is the link with legislation on chemicals. A growing number of chemical substances are identified as being of concern for health or the environment and become subject to restrictions or prohibitions. However, these substances may be present in products sold before the restrictions applied, some of which have a long lifetime, and therefore chemicals of concern can sometimes be found in recycling streams. Such substances can be costly to detect or remove, creating obstacles in particular for small recyclers.

The promotion of non-toxic material cycles and better tracking of chemicals of concern in products will facilitate recycling and improve the uptake of secondary raw materials. The interaction of legislations on waste, products and chemicals must be assessed in the context of a circular economy in order to decide the right course of action at EU level to address the presence of substances of concern, limit unnecessary burden for recyclers and facilitate the traceability and risk management of chemicals in the recycling process. The Commission will therefore develop its analysis and propose options for action to overcome unnecessary barriers while preserving the high level of protection of human health and the environment. This work will feed into the future EU strategy for a non-toxic environment.³²

It is also essential to facilitate the cross-border circulation of secondary raw materials to ensure that they can be traded easily across the EU. Action in this area will include the simplification of cross-border formalities through the use of electronic data exchange. The Commission is examining other barriers to the smooth circulation of waste in the EU. To improve the availability of data on secondary raw materials the Commission will further develop the recently initiated Raw Materials Information System and support EU-wide research on raw materials flows. It will also support the improvement of data reporting on waste shipment, including through the use of data available in the context of cross-border electronic data exchange.

A key factor in creating a dynamic market for secondary raw materials is sufficient demand, driven by the use of recycled materials in products and infrastructure. For certain raw

³² Announced in the [7th Environment Action Programme](#)

materials (e.g. paper or metal), demand is already high; for others, it is still developing. The role of the private sector in creating demand and helping to shape supply chains will be essential; a number of industrial and economic actors have already given public commitment to ensuring a certain level of recycled content in products they put on the market for both sustainability and economic reasons. This should be encouraged, given that market-driven initiatives can be a fast way to deliver tangible results. Public authorities can also contribute to the demand for recycled materials through their procurement policies.

- *The Commission will launch work to develop quality standards for secondary raw materials where they are needed (in particular for plastics), and is proposing improvements to the rules on 'end-of-waste'.*
- *The Commission will propose a revised EU regulation on fertilisers, so as to facilitate recognition of organic and waste-based fertilisers in the single market and thus support the role of bio-nutrients in the circular economy.*
- *The Commission will take a series of actions to facilitate water reuse; this will include a legislative proposal on minimum requirements for reused water, e.g. for irrigation and groundwater recharge.*
- *The Commission will develop analysis and propose options on the interface between chemicals, products and waste legislation, including on how to reduce the presence and improve the tracking of chemicals of concern in products.*
- *The Commission will further develop the recently launched Raw Materials Information System and support EU-wide research on raw materials flows.*

5. Priority areas

A number of sectors face specific challenges in the context of the circular economy, because of the specificities of their products or value-chains, their environmental footprint or dependency on material from outside Europe. These sectors need to be addressed in a targeted way, to ensure that the interactions between the various phases of the cycle are fully taken into account along the whole value chain.

5.1. Plastics

Increasing plastic recycling is essential for the transition to a circular economy. The use of plastics in the EU has grown steadily, but less than 25% of collected plastic waste is recycled and about 50% goes to landfill. Large quantities of plastics also end up in the oceans, and the 2030 Sustainable Development Goals include a target to prevent and significantly reduce marine pollution of all kinds, including marine litter. Smarter separate collection and certification schemes for collectors and sorters are critical to divert recyclable plastics away from landfills and incineration into recycling. The presence of hazardous chemical additives can pose technical difficulties and the emergence of innovative types of plastics raises new questions, e.g. as regards plastics biodegradability. However, innovation in plastics can contribute to the circular economy by better preserving food, improving the recyclability of plastics or reducing the weight of materials used in vehicles.

In order to address these complex and important issues, the Commission will prepare a strategy addressing the challenges posed by plastics throughout the value chain and taking into account their entire life-cycle³³. It will also take action to fulfil the objective of significantly reducing marine litter.³⁴ In the context of the 2016 revision of the Directive on port reception facilities,³⁵ the Commission will also address the issue of marine litter from ships and examine options to increase its delivery to and adequate treatment by port reception facilities. A number of other elements of this action plan will also help to increase plastics recycling, including ecodesign (section 1.1), an EU-wide target on recycling plastic packaging (section 3), quality standards and action to facilitate cross-border trade in recyclable plastics (section 4).

- *The Commission will adopt a strategy on plastics in the circular economy, addressing issues such as recyclability, biodegradability, the presence of hazardous substances of concern in certain plastics, and marine litter.*
- *The Commission is proposing, in the revised legislative proposals on waste, a more ambitious target for the recycling of plastic packaging.*

5.2. Food waste

Food waste is an increasing concern in Europe. The production, distribution and storage of food use natural resources and generate environmental impacts. Discarding food that is still edible increases these impacts, and causes financial loss for consumers and the economy. Food waste also has an important social angle: donation of food that is still edible but that for logistic or marketing reasons cannot be commercialised should be facilitated. In September 2015, as part of the 2030 Sustainable Development Goals, the United Nations General Assembly adopted a target of halving per capita food waste at the retail and consumer level, and reducing food losses along production and supply chains. The EU and its Member States are committed to meeting this target.

Food waste takes place all along the value chain: during production and distribution, in shops, restaurants, catering facilities, and at home. This makes it particularly hard to quantify: today, there is no harmonised, reliable method to measure food waste in the EU, which makes it more difficult for public authorities to assess its scale, origins, and trends over time. Addressing the measurement issue is an important step towards a better understanding of the problem, a coherent monitoring and reporting as well as effective exchange of good practices across the EU. The Commission will elaborate a common EU methodology to measure food waste in close cooperation with Member States and stakeholders.

³³ This strategy will include a follow-up to the [Green Paper on plastic waste](#).

³⁴ The European Commission, in its communication "Towards a circular economy, a zero waste programme for Europe" has proposed an aspirational target of "reducing marine litter by 30 % by 2020 for the ten most common types of litter found on beaches, as well as for fishing gear found at sea, with the list adapted to each of the four marine regions in the EU". Work to reach this target is already underway in Europe.

³⁵ 2000/59/CE

Action by Member States, regions, cities, and business along the value chain is essential to prevent food waste and tackle varying situations across countries and regions. Awareness campaigns are needed to change behaviour. The Commission supports awareness raising at national, regional and local levels and the dissemination of good practices in food waste prevention³⁶.

The Commission will also create a platform dedicated to food waste, bringing together Member States and all actors in the food chain. This platform will support the achievement of the food waste reduction target under the Sustainable Development Goals through appropriate steps, the involvement of stakeholders, the sharing of valuable and successful innovation and relevant benchmarking.

EU action is also important in areas where food waste can result from the way EU legislation is interpreted or implemented. This is the case for rules concerning food donation to food banks, and the use of safe unsold food as a resource in animal feed – the Commission will take measures in these two areas.

Another area where action might be needed concerns date marking, in particular the "best before" date. This can be wrongly interpreted as an expiry date and lead to the discarding of safe, edible food. The Commission will examine ways of promoting a better use and understanding of date marking by the various actors of the food chain. The EU has also adopted measures to prevent edible fish being thrown back into the sea from fishing vessels.³⁷

In order to support the achievement of the Sustainable Development Goal target on food waste and to maximise the contribution of actors in the food supply chain, the Commission will:

- develop a common EU methodology to measure food waste and define relevant indicators. It will create a platform involving Member States and stakeholders in order to support the achievement of the SDG targets on food waste, through the sharing of best practice and the evaluation of progress made over time.*
- take measures to clarify EU legislation relating to waste, food and feed and facilitate food donation and the use of former foodstuff and by-products from the food chain in feed production without compromising food and feed safety; and*
- examine ways to improve the use of date marking by actors in the food chain and its understanding by consumers, in particular the "best before" label.*

5.3. Critical raw materials

Critical raw materials are both of high economic importance for the EU and vulnerable to supply disruption³⁸; in certain cases, their extraction also causes significant environmental

³⁶ http://ec.europa.eu/food/safety/food_waste/stop/index_en.htm

³⁷ Article 15 of Regulation (EU) N° 1380/2013 on the common fisheries policy

³⁸ The European Commission has listed critical raw materials here: http://ec.europa.eu/enterprise/policies/raw-materials/critical/index_en.htm. They include, for example, rare earth elements and other precious metals, but also phosphorus.

impacts. They are often present in electronic devices³⁹. The current very low rate of recycling of these materials means that significant economic opportunities are lost. For all these reasons, increasing the recovery of critical raw materials is one of the challenges that must be addressed in the move to a more circular economy.

Existing EU legislation encourages the recycling of electronic waste, including through mandatory targets⁴⁰; but only high-quality recycling can ensure the recovery of critical raw materials. One of the challenges is collecting, dismantling and recycling products that contain such materials. It will be essential to improve the recyclability of electronic devices through product design (see section 1.1), thus improving the economic viability of the recycling process. The Commission is encouraging Member States to promote recycling of critical raw materials in its revised proposals on waste.

Other barriers include insufficient information exchange between manufacturers and recyclers of electronic products, the absence of recycling standards, and a lack of data for economic operators on the potential for recycled critical raw materials. Such materials could also be recovered in landfills (e.g. from discarded electronic devices) or in certain cases from mining waste. The Commission is developing R&I programmes, data and information exchange, and will promote best practices on all these issues. In order to ensure a coherent and effective approach, to provide key data sources and to identify options for further action, it will prepare a report on critical raw materials in the circular economy.

- The Commission will take a series of actions to encourage recovery of critical raw materials, and prepare a report including best practices and options for further action.

- The Commission is also encouraging action by Member States on this topic in its revised proposals on waste.

5.4. Construction and demolition

In volume terms, construction and demolition are among the biggest sources of waste in Europe. Many of the materials are recyclable or can be reused, but reuse and recycling rates vary widely across the EU. The construction sector also plays a role in the environmental performance of buildings and infrastructure throughout their life.

The recycling of construction and demolition waste is encouraged by an EU-wide mandatory target⁴¹, but challenges on the ground still have to be addressed if waste management in this sector is to improve. For example, valuable materials are not always identified, collected separately, or adequately recovered. The Commission will develop targeted guidelines for use on demolition sites for that purpose, including on the treatment of hazardous waste, and is promoting sorting systems for construction and demolition waste in the revised proposals on waste. It will help to spread best practices by developing voluntary recycling protocols based

³⁹ Such as rare earths in electronic displays or precious metals in printed circuit boards

⁴⁰ http://ec.europa.eu/environment/waste/weee/index_en.htm

⁴¹ http://ec.europa.eu/environment/waste/construction_demolition.htm

on the highest common standards for each waste stream. The Commission is also currently conducting a study to identify the obstacles to, and drivers for, the recycling of construction and demolition waste, and best practices in this area.

Given the long lifetime of buildings, it is essential to encourage design improvements that will reduce their environmental impacts and increase the durability and recyclability of their components. The Commission will develop indicators to assess environmental performance throughout the lifecycle of a building⁴², and promote their use for building projects through large demonstration projects and guidance on GPP.

- The Commission will take a series of actions to ensure recovery of valuable resources and adequate waste management in the construction and demolition sector, and to facilitate assessment of the environmental performance of buildings.

5.5. Biomass and bio-based products

Bio-based materials, i.e. those based on biological resources (such as wood, crops or fibres) can be used for a wide range of products (construction, furniture, paper, food, textile, chemicals, etc...) and energy uses (e.g. biofuels). The bioeconomy hence provides alternatives to fossil-based products and energy, and can contribute to the circular economy. Bio-based materials can also present advantages linked to their renewability, biodegradability or compostability. On the other hand, using biological resources requires attention to their lifecycle environmental impacts and sustainable sourcing. The multiple possibilities for their use can also generate competition for them and create pressure on land-use. The Commission will examine the contribution of its 2012 a Bioeconomy Strategy⁴³ to the circular economy and consider updating it if necessary.

In a circular economy, a cascading use of renewable resources, with several reuse and recycling cycles, should be encouraged where appropriate. Biobased materials, such as for example wood, can be used in multiple ways, and reuse and recycling can take place several times. This goes together with the application of the waste hierarchy (including for food - see section 5.2) and, more generally, options that result in the best overall environmental outcome. National measures such as extended producer responsibility schemes for furniture or wood packaging, or separate collection of wood can have a positive impact. The Commission will work on identifying and sharing best practices in this sector and promote innovation; the revised legislative proposals on waste also include a mandatory EU-level target on recycling wood packaging waste. In addition, the Commission will promote synergies with the circular economy when examining the sustainability of bioenergy under the Energy Union.

The bio-based sector has also shown its potential for innovation in new materials, chemicals and processes, which can be an integral part of the circular economy. Realising this potential

⁴² In application of the [Communication on "Resource efficiency opportunities in the building sector](#)

⁴³ COM(2012)60

depends in particular on investment in integrated bio-refineries, capable of processing biomass and bio-waste for different end-uses. The EU is supporting such investments and other innovative bio economy-based projects through research funding⁴⁴.

- The Commission will promote efficient use of bio-based resources through a series of measures including guidance and dissemination of best practices on the cascading use of biomass and support for innovation in the bioeconomy.

- The revised legislative proposals on waste contains a target for recycling wood packaging and a provision to ensure the separate collection of biowaste.

6. Innovation, investment, and other horizontal measures

The transition to a circular economy is a systemic change. In addition to targeted actions affecting each phase of the value chain and key sectors, it is necessary to create the conditions under which a circular economy can flourish and resources can be mobilised.

Innovation will play a key part in this systemic change. In order to rethink our ways of producing and consuming, and to transform waste into high value-added products, we will need new technologies, processes, services and business models which will shape the future of our economy and society. Hence, support of research and innovation will be a major factor in encouraging the transition; it will also contribute to the competitiveness and modernisation of EU industry. The Horizon 2020 work programme 2016-2017 includes a major initiative: "Industry 2020 in the circular economy", which will grant over €650 million for innovative demonstration projects that support the objectives of the circular economy and industrial competitiveness in the EU in a wide range of industrial and service activities, including process industries, manufacturing, and new business models. It also explores a pilot approach to help innovators facing regulatory obstacles (e.g. ambiguous legal provisions), by setting up agreements with stakeholders and public authorities ('innovation deals').

This initiative adds to a wide range of existing Horizon 2020 programmes supporting innovative projects relevant to the circular economy, in fields such as waste prevention and management, food waste, remanufacturing, sustainable process industry, industrial symbiosis, and the bioeconomy⁴⁵. These will be complemented by the implementation of the Eco-innovation Action Plan⁴⁶.

Important R&I funding opportunities are also available under the Cohesion Policy: the circular economy is one of the priorities highlighted by Member States and regions in their

⁴⁴ <http://ec.europa.eu/research/bioeconomy/index.cfm>

⁴⁵ Horizon 2020 work programme for 2014-2015; call for the 'Waste: a resource to re-use, recycle, and recovery raw materials' focus area; http://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/main/h2020-wp1415-climate_en.pdf; FP7 Environmental Theme, 2013 resource efficiency call: http://ec.europa.eu/research/participants/data/ref/fp7/132129/f-wp-201301_en.pdf

⁴⁶ http://ec.europa.eu/environment/eoap/index_en.htm

Smart Specialisation Strategies⁴⁷. The Commission will offer further support to them, including through the Smart Specialisation Platform.

The development of the circular economy will also require public and private sources of financing to scale up improved technologies and processes, develop infrastructure and increase cooperation between actors in the value chain. Significant support for these objectives will come from EU funding programmes such as Cohesion Policy, LIFE and COSME. For example, Cohesion Policy funds are directed towards a growing number of programmes supporting the circular economy, including support for reuse and repair, improved production processes, product design and SMEs⁴⁸. The Commission will assist Member States, regions and local authorities in strengthening their circular economy approach in this context through targeted outreach. Private finance needs to be directed towards new opportunities created by the circular economy. For the financial sector, such projects can differ significantly from 'business as usual'. The European Fund for Strategic Investments (EFSI) is one instrument that can be used to fund such investments. Together with the European Investment Bank (EIB), and the European Investment Advisory Hub, the Commission will carry out outreach to encourage applications for funding, and support the development of projects and investment platforms relevant to the circular economy, e.g. in the areas of plastics recycling or mineral. Work will be done to develop cross-sectoral clusters and pool resources to formulate projects with a European dimension.⁴⁹ In addition, circular economy projects can benefit from EIB advisory and financing tools under the InnovFin programme.⁵⁰ The Commission is also assessing the possibility of launching a platform together with the EIB and national banks to support the financing of the circular economy.

SMEs, including social enterprises, will make a key contribution to the circular economy: they are particularly active in fields such as recycling, repair, and innovation. However, they also face specific challenges, such as access to funding, and the difficulty of taking account of the circular economy if it is not their core business. As set out in the 2014 Green Action Plan for SMEs⁵¹, the Commission is acting to support these companies, analyse the barriers they encounter to a better use of resources and waste management, and to encourage innovation and cooperation across sectors and regions. The Commission also provides access to finance for social enterprises⁵².

The transition to a circular economy will also require a qualified workforce with specific and sometimes new skills, and opportunities for employment and social dialogue. If the right skills at all levels are to be developed, they will have to be espoused by the education and training

⁴⁷ <http://s3platform.jrc.ec.europa.eu/home>

⁴⁸ http://ec.europa.eu/regional_policy/en/policy/what/investment-policy/

⁴⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0209:FIN:EN:PDF>

⁵⁰ <http://www.eib.org/products/blending/innovfin/?lang=en> – the Commission will extend the scope of the Innov'fin instrument to ensure eligibility of a wider range of innovative circular economy projects

⁵¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0440>

⁵² Through the EU Programme for Employment and Social Innovation (EaSI):

<http://ec.europa.eu/social/main.jsp?catId=1081>

systems. The Commission is following up on its Green Employment Initiative⁵³ with action to anticipate needs and encourage the development of skills and other measures to support job creation in the green economy. It is also acting through its forthcoming New Skills Agenda for Europe.

The global dimension of the circular economy and supply chains is prominent in areas such as sustainable sourcing, marine litter, food waste, and an increasingly globalised market for secondary raw materials. In implementing this action plan, the Commission will cooperate closely with international organisations and other interested partners as part of the global efforts to reach the 2030 Sustainable Development Goals.

Finally, the Commission will actively engage stakeholders in the implementation of this action plan, in particular through existing sectorial platforms. This will be complemented by further support for public private partnerships, voluntary business approaches, exchange of best practice among Member States and regions, and will include consultation with social partners where changes may have important social implications.

- The Horizon 2020 Work Programme for 2016-2017 includes a major initiative on 'Industry 2020 in the circular economy', with funding of over €650 million

- The Commission will launch a pilot approach for "innovation deals" to identify and address potential regulatory obstacles for innovators.

- The Commission will step-up its action to mobilise stakeholders on the circular economy and in particular for the implementation of this action plan. It will also carry out targeted outreach to help the development of circular economy projects for various sources of EU funding, in particular Cohesion Policy Funds.

7. Monitoring progress towards a circular economy

In order to assess progress towards a more circular economy and the effectiveness of action at EU and national level, it is important to have a set of reliable indicators. A lot of relevant data already collected by Eurostat can form a basis for this monitoring. In addition, the Resource Efficiency Scoreboard⁵⁴ and the Raw Materials Scoreboard⁵⁵ contain relevant indicators and analysis which will be particularly useful for tracking progress.

On this basis, the Commission will work in close cooperation with the European Environment Agency (EEA) and in consultation with Member States to propose a simple and effective monitoring framework for the circular economy. Complementing the two above-mentioned scoreboards, this framework will include a set of key, meaningful indicators that capture the

⁵³ COM(2014)446

⁵⁴ <http://ec.europa.eu/eurostat/web/environmental-data-centre-on-natural-resources/resource-efficiency-indicators/resource-efficiency-scoreboard>

⁵⁵ Developed in the context of the European Innovation Partnership on Raw Materials – to be published on <https://ec.europa.eu/growth/tools-databases/eip-raw-materials/en/content/eip-raw-materials-monitoring-and-evaluation-scheme>

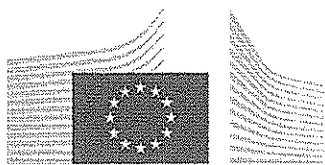
main elements of the circular economy. These will be published in connection with the Commission's reporting on the Sustainable Development Goals and will include new indicators on food waste (see section 5.2) and indicators based on existing Eurostat and other official data in areas such as security of supply for key raw materials, repair and reuse, waste generation, waste management, trade in secondary raw materials in the EU and with non-EU countries, and the use of recycled materials in products. Where necessary, action will be taken to improve the quality of existing data. The Commission will report on progress in implementing this action plan five years after its adoption.

In close cooperation with the EEA and in consultation with Member States, the Commission will develop a monitoring framework for the circular economy, designed to measure progress effectively on the basis of reliable existing data⁵⁶.

8. Conclusion

This action plan sets out a concrete and ambitious EU mandate to support the transition towards a circular economy. A continued, broader commitment from all levels of government, in Member States, regions and cities and all stakeholders concerned will also be necessary. The Commission invites the European Parliament and the Council to endorse this action plan and to actively engage in its implementation, in close cooperation with all relevant stakeholders.

⁵⁶and newly developed data on food waste (see section 5.2).



EUROPEAN
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COM(2015) 614

ANNEX 1

ANNEX

to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Closing the loop - An EU action plan for the Circular Economy

The measures presented in this action plan will all need to be taken forward in line with the better regulation principles, including where appropriate an impact assessment.

Actions	Timetable
Production	
Emphasis on circular economy aspects in future product requirements under the Ecodesign directive.	2016 onwards
Ecodesign work plan 2015-2017 and request to European standardisation organisations to develop standards on material efficiency for setting future Ecodesign requirements on durability, reparability and recyclability of products.	December 2015
Proposal for an implementing regulation on televisions and displays	End 2015 or beginning 2016
Examine options and actions for a more coherent policy framework of the different strands of work of EU product policy in their contribution to the circular economy	2018
Include guidance on circular economy into Best Available Techniques reference documents (BREFs) for several industrial sectors	2016 onwards
Guidance and promotion of best practices in the mining waste management plans	2018
Establishing an open, pan-European network of technological infrastructures for SMEs to integrate advanced manufacturing technologies into their production processes	2016
Examine how to improve the efficiency and uptake of the EU Eco-Management and Audit Scheme (EMAS) and the pilot programme on environmental technology verification (ETV)	2017
Develop an improved knowledge base and support to SMEs for the substitution of hazardous substances of very high concern	2018

Consumption	
Better enforcement of existing guarantees on tangible products, accompanied by a reflection on improvements (upcoming Commission proposal for online sales of goods, and Fitness Check of consumer legislation)	2015-2017
Action on false green claims, including updated guidance on unfair commercial practices	2016
Analysis of the possibility to propose horizontal requirements on repair information provision in the context of Ecodesign	2018
REFIT of Ecolabel, to be followed by actions to enhance its effectiveness	2016
Assessment of the possibility of an independent testing programme on planned obsolescence	2018
Subject to evaluation of the current ongoing pilots, explore the possible uses of the Product Environmental Footprint to measure and communicate environmental information	2016 onwards
Action on Green Public Procurement: enhanced integration of circular economy requirements, support to higher uptake including through training schemes, reinforcing its use in Commission procurement and EU funds	2016 onwards

Waste management	
Revised legislative proposal on waste	Dec 2015
Improved cooperation with Member States for better implementation of EU waste legislation, and combat illicit shipment of end of life vehicles	2015 onwards
Stepping up enforcement of revised Waste Shipment regulation	2016 onwards
Promotion of industry-led voluntary certification of treatment facilities for key waste/recyclate streams	2018 onwards
Initiative on waste to energy in the framework of the Energy Union	2016
Identification and dissemination of good practices in waste collection systems	2016 onwards

Market for secondary raw materials	
Development of quality standards for secondary raw materials (in particular for plastics)	2016 onwards
Proposal for a revised fertilisers regulation	Early 2016
Proposed legislation setting minimum requirements for reused water for irrigation and groundwater recharge	2017
Promotion of safe and cost-effective water reuse, including guidance on the integration of water reuse in water planning and management, inclusion of best practices in relevant BREFs , and support to innovation (through the European Innovation Partnership and Horizon 2020) and investments	2016-2017
Analysis and policy options to address the interface between chemicals, products and waste legislation, including how to reduce the presence and improve the tracking of chemicals of concern in products	2017
Measures to facilitate waste shipment across the EU, including electronic data exchange (and possibly other measures)	2016 onwards
Further development of the EU raw materials information system	2016 onwards

Sectorial action	
Plastics	
Strategy on plastics in the circular economy	2017
Specific action to reduce marine litter implementing the 2030 Sustainable Development Goals	2015 onwards

Food waste	
Development of a common methodology and indicators to measure food waste	2016
Stakeholders platform to examine how to achieve SDGs goals on food waste, share best practice and evaluate progress	2016
Clarify relevant EU legislation related to waste, food and feed in order to facilitate food donation and utilisation of former foodstuffs for animal feed	2016
Explore options for more effective use and understanding of date marking on food	2017

Critical raw materials	
Report on critical raw materials and the circular economy	2017
Improve exchange of information between manufacturers and recyclers on electronic products	2016 onwards

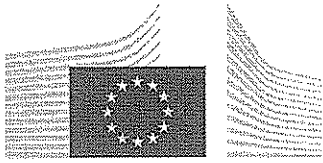
European standards for material-efficient recycling of electronic waste, waste batteries and other relevant complex end-of-life products	2016 onwards
Sharing of best practice for the recovery of critical raw materials from mining waste and landfills	2017

Construction and demolition	
Pre-demolition assessment guidelines for the construction sector	2017
Voluntary industry-wide recycling protocol for construction and demolition waste	2016
Core indicators for the assessment of the lifecycle environmental performance of a building, and incentives for their use	2017 onwards

Biomass and bio-based materials	
Guidance and dissemination of best practice on the cascading use of biomass and support to innovation in this domain through Horizon 2020	2018- 2019
Ensuring coherence and synergies with the circular economy when examining the sustainability of bioenergy under the Energy Union	2016
Assessment of the contribution of the 2012 Bioeconomy Strategy to the circular economy and possible review	2016

Innovation and investments	
Initiative "Industry 2020 and the circular economy" under Horizon 2020	October 2015
Pilot project for "innovation deals" to address possible regulatory obstacles for innovators	2016
Targeted outreach to encourage applications for funding under EFSI, and support the development of projects and investment platforms relevant to the circular economy	2016 onwards
Targeted outreach and communication activities to assist Member States and regions for the uptake of Cohesion Policy funds for the circular economy	2016 onwards
Support to Member States and regions to strengthen innovation for the circular economy through smart specialisation	2016 onwards
Assessment of the possibility of launching a platform together with the EIB and national banks to support the financing of the circular economy	2016
Engagement with stakeholders in the implementation of this action plan through existing fora in key sectors	2016 onwards
Support to a range of stakeholders through actions on public-private partnerships, cooperation platforms, support to voluntary business approaches, and exchanges of best practices	2015 onwards

Monitoring	
Development of a monitoring framework for the circular economy	2017



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Brussels, 2.12.2015
COM(2015) 593 final

2015/0272 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment

(Text with EEA relevance)

{SWD(2015) 259 final}

{SWD(2015) 260 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1 General Context

The Union's economy currently loses a significant amount of potential secondary raw materials which are found in waste streams. In 2013, total waste generation in the EU amounted to approximately 2.5 billion tons of which 1.6 billion tons were not reused or recycled and therefore lost for the European economy. It is estimated that an additional 600 million tons could be recycled or reused. By way of example, only a limited share (43%) of the municipal waste generated in the Union was recycled, with the rest being landfilled (31%) or incinerated (26%). The Union thus misses out on significant opportunities to improve resource efficiency and create a more circular economy.

With respect to waste management, the Union also faces large differences amongst its Member States. In 2011, while six Member States landfilled less than 3% of their municipal waste, 18 landfilled over 50%, with some exceeding 90%. This uneven situation needs to be redressed as a matter of urgency.

The proposals to amend Directive 2008/98/EC on waste¹, Directive 94/62/EC on packaging and packaging waste², Directive 1999/31/EC on the landfill of waste³, Directive 2000/53/EC on end-of-life vehicles⁴, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators⁵ and Directive 2012/19/EU on waste electrical and electronic equipment⁶ form part of a Circular Economy Package which also includes a Commission Communication "Closing the loop – An EU action plan for the Circular Economy".

1.2 Grounds for and objectives of the proposal

Recent trends suggest that further progress on resource efficiency is possible and that it can bring major economic, environmental and social benefits. Turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy.

The legally binding targets in EU waste legislation have been a key driver to improve waste management practices, stimulate innovation in recycling, limit the use of landfilling, and create incentives to change consumer behaviour. Taking waste policy further can bring significant benefits: sustainable growth and job creation, reduced greenhouse gas emissions, direct savings linked with better waste management practices, and a better environment.

The proposal to amend Directive 2008/98/EC responds to the legal obligation to review the waste management targets in that Directive. The proposals which form part of the Circular Economy Package and amend the six Directives mentioned above build in part on the

¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

² Directive 94/62/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

⁴ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles (OJ L 269, 21.10.2000, p. 34-43).

⁵ 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 and repealing Directive 91/157/EEC (OJ L 266, 26.09.2006, p. 1-14).

⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38-71).

proposal that the Commission tabled in July 2014 and subsequently withdrew in February 2015. They are in line with the objectives of the Resource Efficiency Roadmap⁷ and the 7th Environment Action Programme⁸, including full implementation of the waste hierarchy⁹ in all Member States, decline in absolute and per capita waste generation, ensuring high quality recycling and the use of recycled waste as a major, reliable source of raw materials for the Union. They also contribute to the implementation of the EU Raw Materials Initiative¹⁰ and address the need to prevent food waste. In addition, these proposals simplify the reporting requirements included in all six Directives.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1 Studies

The proposals and the accompanying impact assessment assess technological, socio-economic and cost-benefit aspects related to the implementation and further development of EU waste legislation. A supplement to the Impact Assessment was produced to analyse the potential effects of additional variants of the main policy options defined in the Impact Assessment.

2.2 Internal consultation

Within the Commission an Impact Assessment Steering Group composed of various Commission services (SG, ECFIN, GROW, CLIMA, JRC, and ESTAT) followed the preparation of the legislative proposals.

2.3 External consultation

An indicative list of issues to be tackled was developed by the Commission and the first interviews with key stakeholders started in February 2013. An online public consultation in line with the minimum standards for consultation was launched in June 2013, closing in September 2013. 670 responses were submitted, reflecting high public concern about the waste management situation in the EU and high expectations for EU action in this area. A specific consultation of Member States was held between June and September 2015 as well as a broader consultation on the circular economy.

2.4 Impact assessment

An impact assessment report and an executive summary were published together with the proposal adopted in July 2014¹¹. The impact assessment, which remains valid as the main analytical basis for the revised legislative proposals, evaluates the main environmental, social and economic impacts of various policy options to improve waste management in the EU. Various levels of ambition are assessed and compared to a "baseline scenario" in order to identify the most appropriate instruments and targets while minimizing costs and maximizing benefits.

The Commission's Impact Assessment Board delivered a positive opinion on the impact assessment on 8 April 2014, while making a number of recommendations to fine-tune the report. The Board requested to further clarify the problem definition and the need for new

⁷ COM(2011) 571.

⁸ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

⁹ The waste hierarchy gives the preference to prevention first followed by reuse, recycling before energy recovery and disposal which includes landfilling and incineration without energy recovery.

¹⁰ COM(2008) 699 and COM(2014)297.

¹¹ COM(2014)397.

mid-term targets, strengthen the arguments in favour of a landfill ban from a subsidiarity and proportionality point of view and of uniform targets for all Member States, and explain in more detail how the varying performances of Member States are taken into account in the proposal.

The impact assessment led to the conclusion that a combination of Options will bring the following benefits:

- Administrative burden reduction in particular for small establishments or undertakings, simplification and better implementation including by keeping targets ‘fit for purpose’;
- Job creation – more than 170.000 direct jobs could be created by 2035, most of them impossible to delocalize outside the EU;
- GHG emission reduction – more than 600 millions of tons of green house gas could be avoided between 2015 and 2035;
- Positive effects on the competitiveness of the EU waste management and recycling sectors as well as on the EU manufacturing sector (better extended producer responsibility schemes, reduced risks associated with raw material access);
- Reinjection into the EU economy of secondary raw materials which in turn will reduce the dependency of the EU on raw materials imports.

An analytical note supplementing the impact assessment was issued together with the legislative proposal. In this note, a number of additional options and variants were analysed with the aim to better take into account the different starting positions of each Member State.

3. LEGAL ELEMENTS OF THE PROPOSALS

3.1 Summary of the proposed action

The main elements of the proposals to amend EU waste legislation are:

- Alignment of definitions;
- Increase of the preparing for re-use and recycling target for municipal waste to 65% by 2030;
- Increase of the preparing for reuse and recycling targets for packaging waste and the simplification of the set of targets;
- Gradual limitation of the landfilling of municipal waste to 10% by 2030;
- Greater harmonisation and simplification of the legal framework on by-products and end-of-waste status;
- New measures to promote prevention, including for food waste, and re-use;
- Introduction of minimum operating conditions for Extended Producer Responsibility;
- Introduction of an Early Warning System for monitoring compliance with the recycling targets;
- Simplification and streamlining of reporting obligations;
- Alignment to Articles 290 and 291 TFEU on delegated and implementing acts.

3.2 Legal basis and right to act

The proposals amend six Directives addressing the management of different wastes. The proposals to amend Directive 2008/98/EC, Directive 1999/31/EC, Directive 2000/53/EC,

Directive 2006/66/EC and Directive 2012/19/EU are based on Article 192(1) TFEU, whilst the proposal to amend Directive 94/62/EC is based on Article 114 TFEU.

Article 11(2) of Directive 2008/98/EC sets down a 50% target for preparing for re-use and recycling of household and similar waste and a 70% target for preparing for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by 2020. Pursuant to Article 11(4), by 31 December 2014 at the latest, the Commission had to examine those targets with a view to, if necessary, reinforcing them and considering the setting of targets for other waste streams, taking into account the relevant environmental, economic and social impacts of setting the targets. According to Article 9(c), the Commission had to set, by the end of 2014, waste prevention and decoupling objectives for 2020, based on best available practices including, if necessary, a revision of the indicators referred to in Article 29(4). Finally, pursuant to Article 37(4), in the first report that intervenes by 12 December 2014, the Commission had to assess a number of measures including producer responsibility schemes for specific waste streams, targets, indicators and measures related to recycling, as well as material and energy recovery operations that may contribute to fulfilling the objectives set in Articles 1 and 4 more effectively.

Article 5(2) of Directive 1999/31/EC sets down three targets for the diversion of biodegradable municipal waste from landfills and bans the landfilling of certain waste streams. The last target for the diversion of biodegradable municipal waste from landfills has to be met by the Member States by 16 July 2016. Pursuant to Article 5(2), it shall be re-examined by 16 July 2014 with a view to confirming or amending it in order to ensure a high level of environmental protection and in light of the practical experience gained by Member States in the pursuance of the two previous targets.

Article 6(1) of Directive 94/62/EC sets down targets for the recovery and recycling of packaging waste which, pursuant to Article 6(5), shall be fixed every five years based on the practical experience gained in Member States and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

3.3 Subsidiarity and proportionality principle

The proposals are in conformity with the subsidiarity and proportionality principles set out in Article 5 of the Treaty on the European Union. They are limited to amending the abovementioned Directives by providing a framework establishing shared objectives, while leaving Member States free to decide about precise implementation methods.

3.4 Explanatory documents

The Commission considers that documents explaining Member States' measures transposing the Directives are necessary in order to improve the quality of information on the transposition of the Directives.

Waste legislation is often transposed in a highly decentralised manner in the Member States, including on the regional or local level and in multiple legal acts, depending on the administrative structure of a Member State. As a result, in transposing the amended Directives Member States may have to amend a wide variety of legislative acts at national, regional and local levels.

The proposals amend six different waste Directives and affects an important number of legally binding obligations, including a comprehensive amendment of the targets contained in Directive 2008/98/EC, Directive 1999/31/EC and Directive 94/62/EC and a simplification of Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU. This is a complex review of waste legislation that will potentially affect a number of pieces of national legislation.

The revised targets for waste management contained in the amended Directives are interconnected, and should be carefully transposed into national legislation and later on incorporated into national waste management systems.

The proposed provisions will affect a wide range of private and public stakeholders in the Member States and will have an important impact on future investments in waste management infrastructure. The complete and correct transposition of the new legislation is essential to guarantee that their objectives (i.e. protecting human health and the environment, increased resource efficiency, and ensuring the functioning of the internal market and avoiding obstacles to trade and restriction of competition within the EU) are achieved.

The requirement to provide explanatory documents may create an additional administrative burden on some Member States. However, explanatory documents are necessary to allow effective verification of complete and correct transposition, which is essential for the reasons mentioned above, and there are no less burdensome measures to allow efficient verification. Moreover, explanatory documents can contribute significantly to reducing the administrative burden of compliance monitoring by the Commission; without them, considerable resources and numerous contacts with national authorities would be required to track the methods of transposition in all Member States.

In view of the above it is appropriate to ask Member States to accompany the notification of their transposition measures with one or more documents explaining the relationship between the provisions of the Directives amending EU waste legislation and the corresponding parts of national transposition instruments.

3.5 Delegated and implementing powers of the Commission

The delegated and implementing powers of the Commission are identified and the corresponding procedures for adoption of these acts are established in paragraphs 4, 5, 6, 9, 11, 14, 15, 18, 19, 21, 22 of Article 1 of the proposal concerning Directive 2008/98/EC, paragraphs 4, 6, 7, 9, 10 of Article 1 of the proposal concerning Directive 94/62/EC, paragraphs 6 and 7 of Article 1 of the proposal concerning Directive 1999/31/EC and the amendments proposed in Articles 1 and 3 of the proposal concerning Directives 2000/53/EC and 2012/19/EU.

4. BUDGETARY IMPLICATION

The proposals will not have an impact on the European Union budget and is therefore not accompanied by the financial statement provided for under Article 31 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No1605/2002).

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent and rational utilisation of natural resources and promoting a more circular economy.
- (2) To reduce regulatory burden on small establishments or undertakings, simplification of the permitting and registration requirements for small establishments or undertakings should be introduced.
- (2) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring correct implementation, and are generating unnecessary administrative burden. It is therefore appropriate to repeal provisions obliging Member States to produce such reports and for compliance monitoring purposes use exclusively the statistical data which Member States report every year to the Commission.
- (3) Statistical data reported by Member States are essential for the Commission to assess compliance with waste legislation across the Member States. The quality, reliability and comparability of statistics should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report.

¹² OJ C , , p . .

¹³ OJ C , , p . .

- (4) Reliable reporting of statistical data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among a level playing field between Member States. Therefore, when preparing the reports on compliance with the targets set out in these Directives, Member States should be required to use the most recent methodology developed by the Commission and the national statistical offices of the Member States.
- (5) Directives 2000/53/EC, 2006/66/EC and 2012/19/EU should therefore be amended accordingly.
- (6) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹⁴, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (7) Since the objectives of this Directive, namely to improve the management of waste in the Union, and thereby contributing to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural resources, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendment of Directive 2000/53/EC

Article 9 of Directive 2000/53/EC is amended as follows:

- (1) paragraph 1 is deleted;
- (2) the following paragraphs 1a, 1b, 1c and 1d are inserted:

1a. Member States shall report the data concerning the implementation of Article 7(2) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 1d. The first report shall cover the data for the period from 1 January [*enter year of transposition of this Directive + 1 year*] to 31 December [*enter year of transposition of this Directive + 1 year*].

1b. The data reported by the Member State in accordance with this Article shall be accompanied by a quality check report.

1c. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess of the organisation of the data collection, the sources of data and the methodology used in

¹⁴ OJ C 369, 17.12.2011, p. 14.

Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every three years.

1d. The Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 1a. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 11(2).¹.

Article 2

Amendment of Directive 2006/66/EC

Directive 2006/66/EC is amended as follows:

(1) Article 22 is deleted;

(2) Article 23 is amended as follows:

(a) paragraph 1 is replaced by the following:

'The Commission shall draw up a report on the implementation of this Directive and its impact on the environment and the functioning of the internal market by the end of 2016 at the latest.'

(b) in paragraph 2, the introductory phrase is replaced by the following:

'In its report, the Commission shall include an evaluation on the following aspects of this Directive:'.

Article 3

Amendment of Directive 2012/19/EU

Directive 2012/19/EU is amended as follows:

(1) Article 16 is amended as follows:

(a) paragraph 5 is deleted;

(b) the following paragraphs 5a, 5b, 5c and 5d are inserted:

5a. Member States shall report the data concerning the implementation of Article 16(4) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 5d. The first report shall cover the data for the period from 1 January [*enter year of transposition of this Directive + 1 year*] to 31 December [*enter year of transposition of this Directive + 1 year*].

5b. The data reported by the Member State in accordance with this Article shall be accompanied by a quality check report.

5c. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall cover an assessment of the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every three years.

5d. The Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 5a. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).²;

(2) Article 21 is replaced by the following:

Article 21

Committee procedure

1. The Commission shall be assisted by the Committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011(*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).'

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert date eighteen months after the entry into force of this Directive*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6

Addressees

This Directive is addressed to the Member States.

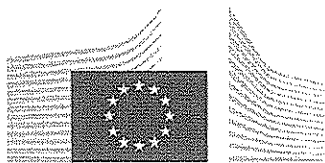
Done at Brussels,

For the European Parliament

The President

For the Council

The President



EUROPEAN
COMMISSION

Brussels, 2.12.2015
COM(2015) 594 final

2015/0274 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 1999/31/EC on the landfill of waste

(Text with EEA relevance)

{SWD(2015) 259 final}

{SWD(2015) 260 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1 General Context

The Union's economy currently loses a significant amount of potential secondary raw materials which are found in waste streams. In 2013, total waste generation in the EU amounted to approximately 2.5 billion tons of which 1.6 billion tons were not reused or recycled and therefore lost for the European economy. It is estimated that an additional 600 million tons could be recycled or reused. By way of example, only a limited share (43%) of the municipal waste generated in the Union was recycled, with the rest being landfilled (31%) or incinerated (26%). The Union thus misses out on significant opportunities to improve resource efficiency and create a more circular economy.

With respect to waste management, the Union also faces large differences amongst its Member States. In 2011, while six Member States landfilled less than 3% of their municipal waste, 18 landfilled over 50%, with some exceeding 90%. This uneven situation needs to be redressed as a matter of urgency.

The proposals to amend Directive 2008/98/EC on waste¹, Directive 94/62/EC on packaging and packaging waste², Directive 1999/31/EC on the landfill of waste³, Directive 2000/53/EC on end-of-life vehicles⁴, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators⁵ and Directive 2012/19/EU on waste electrical and electronic equipment⁶ form part of a Circular Economy Package which also includes a Commission Communication "Closing the loop – An EU action plan for the Circular Economy".

1.2 Grounds for and objectives of the proposal

Recent trends suggest that further progress on resource efficiency is possible and that it can bring major economic, environmental and social benefits. Turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy.

The legally binding targets in EU waste legislation have been a key driver to improve waste management practices, stimulate innovation in recycling, limit the use of landfilling, and create incentives to change consumer behaviour. Taking waste policy further can bring significant benefits: sustainable growth and job creation, reduced greenhouse gas emissions, direct savings linked with better waste management practices, and a better environment.

The proposal to amend Directive 2008/98/EC responds to the legal obligation to review the waste management targets in that Directive. The proposals which form part of the Circular Economy Package and amend the six Directives mentioned above build in part on the proposal that the Commission tabled in July 2014 and subsequently withdrew in December

¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

² Directive 94/62/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

⁴ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles (OJ L 269, 21.10.2000, p. 34-43).

⁵ 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 and repealing Directive 91/157/EEC (OJ L 266, 26.09.2006, p. 1-14).

⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38-71).

2014. They are in line with the objectives of the Resource Efficiency Roadmap⁷ and the 7th Environment Action Programme⁸, including full implementation of the waste hierarchy⁹ in all Member States, decline in absolute and per capita waste generation, ensuring high quality recycling and the use of recycled waste as a major, reliable source of raw materials for the Union. They also contribute to the implementation of the EU Raw Materials Initiative¹⁰ and address the need to prevent food waste. In addition, these proposals simplify the reporting requirements included in all six Directives.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1 Studies

The proposals and the accompanying impact assessment assess technological, socio-economic and cost-benefit aspects related to the implementation and further development of EU waste legislation. A supplement to the Impact Assessment was produced to analyse the potential effects of additional variants of the main policy options defined in the Impact Assessment.

2.2 Internal consultation

Within the Commission an Impact Assessment Steering Group composed of various Commission services (SG, ECFIN, GROW, CLIMA, JRC, and ESTAT) followed the preparation of the legislative proposals.

2.3 External consultation

An indicative list of issues to be tackled was developed by the Commission and the first interviews with key stakeholders started in February 2013. An online public consultation in line with the minimum standards for consultation was launched in June 2013, closing in September 2013. 670 responses were submitted, reflecting high public concern about the waste management situation in the EU and high expectations for EU action in this area. A specific consultation of Member States was held between June and September 2015 as well as a broader consultation on the circular economy.

2.4 Impact assessment

An impact assessment report and an executive summary were published together with the proposal adopted in July 2014¹¹. The impact assessment, which remains valid as the main analytical basis for the revised legislative proposals, evaluates the main environmental, social and economic impacts of various policy options to improve waste management in the EU. Various levels of ambition are assessed and compared to a "baseline scenario" in order to identify the most appropriate instruments and targets while minimizing costs and maximizing benefits.

The Commission's Impact Assessment Board delivered a positive opinion on the impact assessment on 8 April 2014, while making a number of recommendations to fine-tune the report. The Board requested to further clarify the problem definition and the need for new mid-term targets, strengthen the arguments in favour of a landfill ban from a subsidiarity and proportionality point of view and of uniform targets for all Member States, and explain in

⁷ COM(2011) 571.

⁸ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

⁹ The waste hierarchy gives the preference to prevention first followed by reuse, recycling before energy recovery and disposal which includes landfilling and incineration without energy recovery.

¹⁰ COM(2008) 699 and COM(2014)297.

¹¹ COM(2014)397.

more detail how the varying performances of Member States are taken into account in the proposal.

The impact assessment led to the conclusion that a combination of Options will bring the following benefits:

- Administrative burden reduction in particular for small establishments or undertakings, simplification and better implementation including by keeping targets ‘fit for purpose’;
- Job creation – more than 170.000 direct jobs could be created by 2035, most of them impossible to delocalize outside the EU;
- GHG emission reduction – more than 600 millions of tons of green house gas could be avoided between 2015 and 2035;
- Positive effects on the competitiveness of the EU waste management and recycling sectors as well as on the EU manufacturing sector (better extended producer responsibility schemes, reduced risks associated with raw material access);
- Reinjection into the EU economy of secondary raw materials which in turn will reduce the dependency of the EU on raw materials imports.

An analytical note supplementing the impact assessment was issued together with the legislative proposal. In this note, a number of additional options and variants were analysed with the aim to better take into account the different starting positions of each Member State.

3. LEGAL ELEMENTS OF THE PROPOSALS

3.1 Summary of the proposed action

The main elements of the proposals to amend EU waste legislation are:

- Alignment of definitions;
- Increase of the preparing for re-use and recycling target for municipal waste to 65% by 2030;
- Increase of the preparing for reuse and recycling targets for packaging waste and the simplification of the set of targets;
- Gradual limitation of the landfilling of municipal waste to 10% by 2030;
- Greater harmonisation and simplification of the legal framework on by-products and end-of-waste status;
- New measures to promote prevention, including for food waste, and re-use;
- Introduction of minimum operating conditions for Extended Producer Responsibility;
- Introduction of an Early Warning System for monitoring compliance with the recycling targets;
- Simplification and streamlining of reporting obligations;
- Alignment to Articles 290 and 291 TFEU on delegated and implementing acts.

3.2 Legal basis and right to act

The proposals amend six Directives addressing the management of different wastes. The proposals to amend Directive 2008/98/EC, Directive 1999/31/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU are based on Article 192(1) TFEU, whilst the proposal to amend Directive 94/62/EC is based on Article 114 TFEU.

Article 11(2) of Directive 2008/98/EC sets down a 50% target for preparing for re-use and recycling of household and similar waste and a 70% target for preparing for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by 2020. Pursuant to Article 11(4), by 31 December 2014 at the latest, the Commission had to examine those targets with a view to, if necessary, reinforcing them and considering the setting of targets for other waste streams, taking into account the relevant environmental, economic and social impacts of setting the targets. According to Article 9(c), the Commission had to set, by the end of 2014, waste prevention and decoupling objectives for 2020, based on best available practices including, if necessary, a revision of the indicators referred to in Article 29(4). Finally, pursuant to Article 37(4), in the first report that intervenes by 12 December 2014, the Commission had to assess a number of measures including producer responsibility schemes for specific waste streams, targets, indicators and measures related to recycling, as well as material and energy recovery operations that may contribute to fulfilling the objectives set in Articles 1 and 4 more effectively.

Article 5(2) of Directive 1999/31/EC sets down three targets for the diversion of biodegradable municipal waste from landfills and bans the landfilling of certain waste streams. The last target for the diversion of biodegradable municipal waste from landfills has to be met by the Member States by 16 July 2016. Pursuant to Article 5(2), it shall be re-examined by 16 July 2014 with a view to confirming or amending it in order to ensure a high level of environmental protection and in light of the practical experience gained by Member States in the pursuance of the two previous targets.

Article 6(1) of Directive 94/62/EC sets down targets for the recovery and recycling of packaging waste which, pursuant to Article 6(5), shall be fixed every five years based on the practical experience gained in Member States and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

3.3 Subsidiarity and proportionality principle

The proposals are in conformity with the subsidiarity and proportionality principles set out in Article 5 of the Treaty on the European Union. They are limited to amending the abovementioned Directives by providing a framework establishing shared objectives, while leaving Member States free to decide about precise implementation methods.

3.4 Explanatory documents

The Commission considers that documents explaining Member States' measures transposing the Directives are necessary in order to improve the quality of information on the transposition of the Directives.

Waste legislation is often transposed in a highly decentralised manner in the Member States, including on the regional or local level and in multiple legal acts, depending on the administrative structure of a Member State. As a result, in transposing the amended Directives Member States may have to amend a wide variety of legislative acts at national, regional and local levels.

The proposals amend six different waste Directives and affects an important number of legally binding obligations, including a comprehensive amendment of the targets contained in Directive 2008/98/EC, Directive 1999/31/EC and Directive 94/62/EC and a simplification of Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU. This is a complex review of waste legislation that will potentially affect a number of pieces of national legislation.

The revised targets for waste management contained in the amended Directives are interconnected, and should be carefully transposed into national legislation and later on incorporated into national waste management systems.

The proposed provisions will affect a wide range of private and public stakeholders in the Member States and will have an important impact on future investments in waste management infrastructure. The complete and correct transposition of the new legislation is essential to guarantee that their objectives (i.e. protecting human health and the environment, increased resource efficiency, and ensuring the functioning of the internal market and avoiding obstacles to trade and restriction of competition within the EU) are achieved.

The requirement to provide explanatory documents may create an additional administrative burden on some Member States. However, explanatory documents are necessary to allow effective verification of complete and correct transposition, which is essential for the reasons mentioned above, and there are no less burdensome measures to allow efficient verification. Moreover, explanatory documents can contribute significantly to reducing the administrative burden of compliance monitoring by the Commission; without them, considerable resources and numerous contacts with national authorities would be required to track the methods of transposition in all Member States.

In view of the above it is appropriate to ask Member States to accompany the notification of their transposition measures with one or more documents explaining the relationship between the provisions of the Directives amending EU waste legislation and the corresponding parts of national transposition instruments.

3.5 Delegated and implementing powers of the Commission

The delegated and implementing powers of the Commission are identified and the corresponding procedures for adoption of these acts are established in paragraphs 4, 5, 6, 9, 11, 14, 15, 18, 19, 21, 22 of Article 1 of the proposal concerning Directive 2008/98/EC, paragraphs 4, 6, 7, 9, 10 of Article 1 of the proposal concerning Directive 94/62/EC, paragraphs 6 and 7 of Article 1 of the proposal concerning Directive 1999/31/EC and the amendments proposed in Articles 1 and 3 of the proposal concerning Directives 2000/53/EC and 2012/19/EU.

4. BUDGETARY IMPLICATION

The proposals will not have an impact on the European Union budget and is therefore not accompanied by the financial statement provided for under Article 31 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No1605/2002).

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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(Text with EEA relevance)

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Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

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After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent and rational utilisation of natural resources and promoting a more circular economy.
- (2) The targets laid down in Council Directive 1999/31/EC¹⁴ setting landfill restrictions should be amended to make them better reflect the Union's ambition to move to a circular economy and make progress in the implementation of the Raw Materials Initiative¹⁵ by reducing landfilling of waste destined for landfills for non-hazardous waste.
- (3) To ensure that targets are set based on available data and to enable proper monitoring, municipal waste should be clearly defined in line with the definition used for statistical purposes by the European Statistical Office and the Organisation for Economic Co-operation and Development, on the basis of which Member States have been reporting data for several years.
- (4) In order to ensure greater coherence in waste legislation, the definitions in Directives 1999/31/EC should be aligned to those of Directive 2008/98/EC of the European Parliament and of the Council¹⁶.

¹² OJ C , , p. .

¹³ OJ C , , p. .

¹⁴ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

¹⁵ COM(2008) 699 and COM(2014) 297.

¹⁶ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

- (5) Clear environmental, economic and social benefits would be derived from further restricting landfilling, starting with waste streams that are subject to separate collection (e.g. plastics, metals, glass, paper, bio-waste). Technical, environmental or economical feasibility of recycling or other recovery of residual waste resulting from separately collected waste should be taken into account in the implementation of these landfill restrictions.
- (6) Biodegradable municipal waste accounts for a large proportion of municipal waste. Landfilling of untreated biodegradable waste poses significant negative environmental effects in terms of greenhouse gas emissions and pollution of surface water, groundwater, soil and air. While Directive 1999/31/EC already sets landfill diversion targets for biodegradable waste it is appropriate to put in place further restrictions on the landfilling of biodegradable waste by prohibiting the landfilling of biodegradable waste that has been separately collected in accordance with Article 22 of Directive 2008/98/EC.
- (7) Many Member States have not yet completely developed the necessary waste management infrastructure. The setting of landfill reduction targets will further facilitate separate collection, sorting and recycling of waste and avoid locking potentially recyclable materials at the bottom of the waste hierarchy.
- (8) A progressive reduction of landfilling is necessary to prevent detrimental impacts on human health and the environment and to ensure that economically valuable waste materials are gradually and effectively recovered through proper waste management and in line with the waste hierarchy. This reduction should avoid the development of excessive capacity for the treatment of residual waste facilities, such as through energy recovery or low grade mechanical biological treatment of untreated municipal waste, as this could result in undermining the achievement of the Union's long-term preparation for reuse and recycling targets for municipal waste as laid down in Article 11 of Directive 2008/98/EC. Similarly, and to prevent detrimental impacts on human health and the environment, while Member States should take all necessary measures to ensure that only waste that has been subject to treatment is landfilled, compliance with such obligation should not lead to the creation of overcapacities for the treatment of residual municipal waste. In addition, in order to ensure consistency between the targets laid down in Article 11 of Directive 2008/98/EC and the landfill reduction target defined in Article 5 of this Directive and to ensure a coordinated planning of the infrastructures and investments needed to meet those targets, Member States which may obtain additional time for the attainment of the municipal waste recycling targets should also be given additional time to attain the landfill reduction target for 2030 as laid down in this Directive.
- (9) In order to ensure better, timelier, and more uniform implementation of this Directive and anticipate implementation weaknesses, an early warning system should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.
- (10) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring correct implementation, and are generating unnecessary administrative burden. It is therefore appropriate to repeal provisions obliging Member States to produce such reports and for compliance monitoring purposes use exclusively the statistical data which Member States report every year to the Commission.

- (11) Statistical data reported by Member States are essential for the Commission to assess compliance with waste legislation across the Member States. The quality, reliability and comparability of statistics should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report. Reliable reporting of statistical data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among Member States. Therefore, when preparing the reports on compliance with the targets set out in Directive 1999/31/EC, Member States should be required to use the most recent methodology developed by the Commission and the national statistical offices of the Member States.
- (12) In order to supplement or amend Directive 1999/31/EC, in particular with the view to adapting its Annexes to scientific and technical progress, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Article 16. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. Any amendments to the Annexes should only be made in line with the principles laid down in this Directive. To this end, as regards Annex II, the Commission should take into account the general principles and general procedures for testing and acceptance criteria as set out in Annex II. Moreover, specific criteria and test methods and associated limit values should be set for each class of landfill, including if necessary specific types of landfill within each class, including underground storage. Proposals for the standardisation of control, sampling and analysis methods in relation to the Annexes should be considered for adoption by the Commission where appropriate within two years after the entry into force of this Directive.
- (13) In order to ensure uniform conditions for the implementation of Directive 1999/31/EC, implementing powers should be conferred on the Commission in respect of Articles 3(3), Annex I, paragraph 3.5 and Annex II, paragraph 5. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁷.
- (14) Directive 1999/31/EC should therefore be amended accordingly.
- (15) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹⁸, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (16) Since the objectives of this Directive, namely to improve the management of waste in the Union, and thereby contributing to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural

¹⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

¹⁸ OJ C 369, 17.12.2011, p. 14.

resources, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 1999/31/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

'(a) the definitions of 'waste', 'municipal waste', 'hazardous waste', 'waste producer', 'waste holder', 'waste management', 'separate collection', 'recovery', 'recycling' and 'disposal' laid down in Article 3 of Directive 2008/98/EC of the European Parliament and of the Council(*) shall apply;

(*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).';

(b) points (b), (c), (d) and (n) are deleted;

(2) Article 5 is amended as follows:

(a) in paragraph 2 the following sentence is deleted:

'Two years before the date referred to in paragraph c) the Council shall reexamine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraph a) and b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection.'

(b) in paragraph 3 the following point (f) is added:

'(f) waste that has been separately collected pursuant to Article 11(1) and 22 of Directive 2008/98/EC.';

(c) the following paragraphs 5, 6 and 7 are added:

5. Member States shall take the necessary measures to ensure that by 2030 the amount of municipal waste landfilled is reduced to 10% of the total amount of municipal waste generated.

6. Estonia, Greece, Croatia, Latvia, Malta, Romania and Slovakia may obtain five additional years for the attainment of the target referred to in paragraph 5. The Member State shall notify the Commission of its intention to make use of this provision at the latest 24 months before the deadline laid down in paragraph 5. In the event of an extension, the Member State shall take the necessary measures to reduce by 2030 the amount of municipal waste landfilled to 20% of the total amount of municipal waste generated.

The notification shall be accompanied by an implementation plan presenting the measures needed to ensure compliance with the targets before the new deadline. The plan shall also include a detailed timetable for the implementation of the proposed measures and an assessment of their expected impacts.

7. By 31 December 2024 at the latest, the Commission shall examine the target laid down in paragraph 5 with a view to reducing it and introducing restrictions to the landfilling of non-hazardous waste other than municipal waste. To this end, a report

of the Commission accompanied by a proposal, if appropriate, shall be sent to the European Parliament and the Council.';

(3) the following Article 5a is inserted:

'Article 5a

Early warning report

1. The Commission shall, in cooperation with the European Environment Agency, draw up a report on the progress towards the achievement of the targets laid down in Article 5(5) and (6) three years before each time-limit laid down in those provisions at the latest.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the achievement of the targets by each Member State;
- (b) a list of Member States at risk of not achieving the targets within the respective time limits accompanied by appropriate recommendations for the Member States concerned.';

(4) in Article 6(a), the following sentence is added:

'Member States shall ensure that measures taken in accordance with this point do not compromise the achievement of the objectives of Directive 2008/98/EC, notably on the increase of preparing for re-use and recycling as set out in Article 11 of that Directive.';

(5) in Article 11(2), the second sub-paragraph is deleted.

(6) Article 15 is replaced by the following:

'Article 15

Reporting

1. Member States shall report the data concerning the implementation of Article 5(2) and (5) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 5. The first reporting shall cover the data for the period from 1 January [*enter year of transposition of this Directive + 1 year*] to 31 December [*enter year of transposition of this Directive + 1 year*].

2. Member States shall report the data concerning the implementation of the targets laid down in Article 5(2) until 1 January 2025.

3. The data reported by the Member State in accordance with this Article shall be accompanied by a quality check report.

4. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall cover an assessment of the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every three years.

5. The Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 1. Those implementing acts shall be

adopted in accordance with the procedure referred to in Article 17(2) of this Directive.';

(7) Article 16 is replaced by the following:

'Article 16

Amendment of the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 17a for adapting the Annexes to scientific and technical progress.';

(8) Article 17 is replaced by the following:

'Article 17

Committee procedure

1. The Commission shall be assisted by the Committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council(*).

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*). Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).';

(9) the following Article 17a is inserted:

'Article 17a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt the delegated acts referred to in Article 16 shall be conferred on the Commission for an indeterminate period of time from [*enter date of entry into force of this Directive*].

3. The delegation of power referred to in Article 16 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 16 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That

period shall be extended by two months at the initiative of the European Parliament or of the Council.!

(10) in Annex III, point 2, the first sub-paragraph is deleted;

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert date eighteen months after the entry into force of this Directive*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

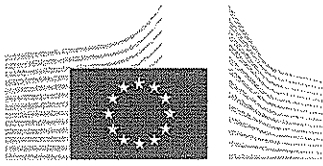
Done at Brussels,

For the European Parliament

The President

For the Council

The President



EUROPEAN
COMMISSION

Brussels, 2.12.2015
COM(2015) 595 final

2015/0275 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/98/EC on waste

(Text with EEA relevance)

{SWD(2015) 259 final}

{SWD(2015) 260 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1 General Context

The Union's economy currently loses a significant amount of potential secondary raw materials which are found in waste streams. In 2013, total waste generation in the EU amounted to approximately 2.5 billion tons of which 1.6 billion tons were not reused or recycled and therefore lost for the European economy. It is estimated that an additional 600 million tons could be recycled or reused. By way of example, only a limited share (43%) of the municipal waste generated in the Union was recycled, with the rest being landfilled (31%) or incinerated (26%). The Union thus misses out on significant opportunities to improve resource efficiency and create a more circular economy.

With respect to waste management, the Union also faces large differences amongst its Member States. In 2011, while six Member States landfilled less than 3% of their municipal waste, 18 landfilled over 50%, with some exceeding 90%. This uneven situation needs to be redressed as a matter of urgency.

The proposals to amend Directive 2008/98/EC on waste¹, Directive 94/62/EC on packaging and packaging waste², Directive 1999/31/EC on the landfill of waste³, Directive 2000/53/EC on end-of-life vehicles⁴, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators⁵ and Directive 2012/19/EU on waste electrical and electronic equipment⁶ form part of a Circular Economy Package which also includes a Commission Communication "Closing the loop – An EU action plan for the Circular Economy".

1.2 Grounds for and objectives of the proposal

Recent trends suggest that further progress on resource efficiency is possible and that it can bring major economic, environmental and social benefits. Turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy.

The legally binding targets in EU waste legislation have been a key driver to improve waste management practices, stimulate innovation in recycling, limit the use of landfilling, and create incentives to change consumer behaviour. Taking waste policy further can bring significant benefits: sustainable growth and job creation, reduced greenhouse gas emissions, direct savings linked with better waste management practices, and a better environment.

The proposal to amend Directive 2008/98/EC responds to the legal obligation to review the waste management targets in that Directive. The proposals which form part of the Circular Economy Package and amend the six Directives mentioned above build in part on the

¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

² Directive 94/62/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

⁴ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles (OJ L 269, 21.10.2000, p. 34-43).

⁵ 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 and repealing Directive 91/157/EEC (OJ L 266, 26.09.2006, p. 1-14).

⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38-71).

proposal that the Commission tabled in July 2014 and subsequently withdrew in February 2015. They are in line with the objectives of the Resource Efficiency Roadmap⁷ and the 7th Environment Action Programme⁸, including full implementation of the waste hierarchy⁹ in all Member States, decline in absolute and per capita waste generation, ensuring high quality recycling and the use of recycled waste as a major, reliable source of raw materials for the Union. They also contribute to the implementation of the EU Raw Materials Initiative¹⁰ and address the need to prevent food waste. In addition, these proposals simplify the reporting requirements included in all six Directives.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1 Studies

The proposals and the accompanying impact assessment assess technological, socio-economic and cost-benefit aspects related to the implementation and further development of EU waste legislation. A supplement to the Impact Assessment was produced to analyse the potential effects of additional variants of the main policy options defined in the Impact Assessment.

2.2 Internal consultation

Within the Commission an Impact Assessment Steering Group composed of various Commission services (SG, ECFIN, GROW, CLIMA, JRC, and ESTAT) followed the preparation of the legislative proposals.

2.3 External consultation

An indicative list of issues to be tackled was developed by the Commission and the first interviews with key stakeholders started in February 2013. An online public consultation in line with the minimum standards for consultation was launched in June 2013, closing in September 2013. 670 responses were submitted, reflecting high public concern about the waste management situation in the EU and high expectations for EU action in this area. A specific consultation of Member States was held between June and September 2015 as well as a broader consultation on the circular economy.

2.4 Impact assessment

An impact assessment report and an executive summary were published together with the proposal adopted in July 2014¹¹. The impact assessment, which remains valid as the main analytical basis for the revised legislative proposals, evaluates the main environmental, social and economic impacts of various policy options to improve waste management in the EU. Various levels of ambition are assessed and compared to a "baseline scenario" in order to identify the most appropriate instruments and targets while minimizing costs and maximizing benefits.

The Commission's Impact Assessment Board delivered a positive opinion on the impact assessment on 8 April 2014, while making a number of recommendations to fine-tune the report. The Board requested to further clarify the problem definition and the need for new

⁷ COM(2011) 571.

⁸ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

⁹ The waste hierarchy gives the preference to prevention first followed by reuse, recycling before energy recovery and disposal which includes landfilling and incineration without energy recovery.

¹⁰ COM(2008) 699 and COM(2014)297.

¹¹ COM(2014)397.

mid-term targets, strengthen the arguments in favour of a landfill ban from a subsidiarity and proportionality point of view and of uniform targets for all Member States, and explain in more detail how the varying performances of Member States are taken into account in the proposal.

The impact assessment led to the conclusion that a combination of Options will bring the following benefits:

- Administrative burden reduction in particular for small establishments or undertakings, simplification and better implementation including by keeping targets ‘fit for purpose’;
- Job creation – more than 170.000 direct jobs could be created by 2035, most of them impossible to delocalize outside the EU;
- GHG emission reduction – more than 600 millions of tons of green house gas could be avoided between 2015 and 2035;
- Positive effects on the competitiveness of the EU waste management and recycling sectors as well as on the EU manufacturing sector (better extended producer responsibility schemes, reduced risks associated with raw material access);
- Reinjection into the EU economy of secondary raw materials which in turn will reduce the dependency of the EU on raw materials imports.

An analytical note supplementing the impact assessment was issued together with the legislative proposal. In this note, a number of additional options and variants were analysed with the aim to better take into account the different starting positions of each Member State.

3. LEGAL ELEMENTS OF THE PROPOSALS

3.1 Summary of the proposed action

The main elements of the proposals to amend EU waste legislation are:

- Alignment of definitions;
- Increase of the preparing for re-use and recycling target for municipal waste to 65% by 2030;
- Increase of the preparing for reuse and recycling targets for packaging waste and the simplification of the set of targets;
- Gradual limitation of the landfilling of municipal waste to 10% by 2030;
- Greater harmonisation and simplification of the legal framework on by-products and end-of-waste status;
- New measures to promote prevention, including for food waste, and re-use;
- Introduction of minimum operating conditions for Extended Producer Responsibility;
- Introduction of an Early Warning System for monitoring compliance with the recycling targets;
- Simplification and streamlining of reporting obligations;
- Alignment to Articles 290 and 291 TFEU on delegated and implementing acts.

3.2 Legal basis and right to act

The proposals amend six Directives addressing the management of different wastes. The proposals to amend Directive 2008/98/EC, Directive 1999/31/EC, Directive 2000/53/EC,

Directive 2006/66/EC and Directive 2012/19/EU are based on Article 192(1) TFEU, whilst the proposal to amend Directive 94/62/EC is based on Article 114 TFEU.

Article 11(2) of Directive 2008/98/EC sets down a 50% target for preparing for re-use and recycling of household and similar waste and a 70% target for preparing for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by 2020. Pursuant to Article 11(4), by 31 December 2014 at the latest, the Commission had to examine those targets with a view to, if necessary, reinforcing them and considering the setting of targets for other waste streams, taking into account the relevant environmental, economic and social impacts of setting the targets. According to Article 9(c), the Commission had to set, by the end of 2014, waste prevention and decoupling objectives for 2020, based on best available practices including, if necessary, a revision of the indicators referred to in Article 29(4). Finally, pursuant to Article 37(4), in the first report that intervenes by 12 December 2014, the Commission had to assess a number of measures including producer responsibility schemes for specific waste streams, targets, indicators and measures related to recycling, as well as material and energy recovery operations that may contribute to fulfilling the objectives set in Articles 1 and 4 more effectively.

Article 5(2) of Directive 1999/31/EC sets down three targets for the diversion of biodegradable municipal waste from landfills and bans the landfilling of certain waste streams. The last target for the diversion of biodegradable municipal waste from landfills has to be met by the Member States by 16 July 2016. Pursuant to Article 5(2), it shall be re-examined by 16 July 2014 with a view to confirming or amending it in order to ensure a high level of environmental protection and in light of the practical experience gained by Member States in the pursuance of the two previous targets.

Article 6(1) of Directive 94/62/EC sets down targets for the recovery and recycling of packaging waste which, pursuant to Article 6(5), shall be fixed every five years based on the practical experience gained in Member States and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

3.3 Subsidiarity and proportionality principle

The proposals are in conformity with the subsidiarity and proportionality principles set out in Article 5 of the Treaty on the European Union. They are limited to amending the abovementioned Directives by providing a framework establishing shared objectives, while leaving Member States free to decide about precise implementation methods.

3.4 Explanatory documents

The Commission considers that documents explaining Member States' measures transposing the Directives are necessary in order to improve the quality of information on the transposition of the Directives.

Waste legislation is often transposed in a highly decentralised manner in the Member States, including on the regional or local level and in multiple legal acts, depending on the administrative structure of a Member State. As a result, in transposing the amended Directives Member States may have to amend a wide variety of legislative acts at national, regional and local levels.

The proposals amend six different waste Directives and affects an important number of legally binding obligations, including a comprehensive amendment of the targets contained in Directive 2008/98/EC, Directive 1999/31/EC and Directive 94/62/EC and a simplification of Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU. This is a complex review of waste legislation that will potentially affect a number of pieces of national legislation.

The revised targets for waste management contained in the amended Directives are interconnected, and should be carefully transposed into national legislation and later on incorporated into national waste management systems.

The proposed provisions will affect a wide range of private and public stakeholders in the Member States and will have an important impact on future investments in waste management infrastructure. The complete and correct transposition of the new legislation is essential to guarantee that their objectives (i.e. protecting human health and the environment, increased resource efficiency, and ensuring the functioning of the internal market and avoiding obstacles to trade and restriction of competition within the EU) are achieved.

The requirement to provide explanatory documents may create an additional administrative burden on some Member States. However, explanatory documents are necessary to allow effective verification of complete and correct transposition, which is essential for the reasons mentioned above, and there are no less burdensome measures to allow efficient verification. Moreover, explanatory documents can contribute significantly to reducing the administrative burden of compliance monitoring by the Commission; without them, considerable resources and numerous contacts with national authorities would be required to track the methods of transposition in all Member States.

In view of the above it is appropriate to ask Member States to accompany the notification of their transposition measures with one or more documents explaining the relationship between the provisions of the Directives amending EU waste legislation and the corresponding parts of national transposition instruments.

3.5 Delegated and implementing powers of the Commission

The delegated and implementing powers of the Commission are identified and the corresponding procedures for adoption of these acts are established in paragraphs 4, 5, 6, 9, 11, 14, 15, 18, 19, 21, 22 of Article 1 of the proposal concerning Directive 2008/98/EC, paragraphs 4, 6, 7, 9, 10 of Article 1 of the proposal concerning Directive 94/62/EC, paragraphs 6 and 7 of Article 1 of the proposal concerning Directive 1999/31/EC and the amendments proposed in Articles 1 and 3 of the proposal concerning Directives 2000/53/EC and 2012/19/EU.

4. BUDGETARY IMPLICATION

The proposals will not have an impact on the European Union budget and is therefore not accompanied by the financial statement provided for under Article 31 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No1605/2002).

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/98/EC on waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent and rational utilisation of natural resources and promoting a more circular economy.
- (2) The targets laid down in Directive 2008/98/EC of the European Parliament and of the Council¹⁴ for preparing for re-use and recycling of waste should be amended to make them better reflect the Union's ambition to move to a circular economy.
- (3) Many Member States have yet to develop the necessary waste management infrastructure. It is therefore essential to set long-term policy objectives in order to guide measures and investments, notably by preventing the creation of structural overcapacities for the treatment of residual waste and lock-ins of recyclable materials at the bottom of the waste hierarchy.
- (4) Municipal waste constitutes approximately between 7 and 10% of the total waste generated in the Union; however, this waste stream is amongst the most complex ones to manage, and the way it is managed generally gives a good indication of the quality of the overall waste management system in a country. The challenges of municipal waste management result from its highly complex and mixed composition, direct proximity of the generated waste to citizens, and a very high public visibility. As a result, its management involves a need for a highly complex waste management

¹² OJ C , , p. .

¹³ OJ C , , p. .

¹⁴ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

system including an efficient collection scheme, a need to actively engage citizens and businesses, a need for infrastructure adjusted to the specific waste composition, and an elaborate financing system. Countries which have developed efficient municipal waste management systems generally perform better in overall waste management.

- (5) Definitions of municipal waste, construction and demolition waste, the final recycling process, and backfilling need to be included in Directive 2008/98/EC so that the scope of these concepts is clarified.
- (6) To ensure that recycling targets are based on reliable and comparable data and to enable more effective monitoring of progress in attaining those targets, the definition of municipal waste in Directive 2008/98/EC should be in line with the definition used for statistical purposes by the European Statistical Office and the Organisation for Economic Co-operation and Development, on the basis of which Member States have been reporting data for several years. The definition of municipal waste in this Directive is neutral with regard to the public or private status of the operator managing waste.
- (7) Member States should put in place adequate incentives for the application of the waste hierarchy, in particular, by means of financial incentives aimed at achieving the waste prevention and recycling objectives of this Directive, such as landfill and incineration charges, pay as you throw schemes, extended producer responsibility schemes and incentives for local authorities.
- (8) In order to provide operators in markets for secondary raw materials with more certainty as to the waste or non-waste status of substances or objects and promote a level playing field, it is important to establish at the Union level harmonized conditions for substances or objects to be recognised as by-products and for waste that has undergone a recovery operation to be recognised as having ceased to be waste. Where necessary to ensure the smooth functioning of the internal market or a high level of environmental protection across the Union, the Commission should be empowered to adopt delegated acts establishing detailed criteria on the application of such harmonized conditions to certain waste, including for a specific use.
- (9) Extended producer responsibility schemes form an essential part of efficient waste management, but their effectiveness and performance differ significantly between Member States. Thus, it is necessary to set minimum operating requirements for extended producer responsibility. Those requirements should reduce costs and boost performance, as well as ensure a level-playing field, including for small and medium sized enterprises, and avoid obstacles to the smooth functioning of the internal market. They should also contribute to the incorporation of end-of-life costs into product prices and provide incentives for producers to take better into account recyclability and reusability when designing their products. The requirements should apply to both new and existing extended producer responsibility schemes. A transitional period is however necessary for existing extended producer responsibility schemes to adapt their structures and procedures to the new requirements.
- (10) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that Member States take appropriate measures to prevent waste generation and monitor and assess progress in the implementation of such measures. In order to ensure a uniform measurement of the overall progress in the implementation of waste prevention measures, common indicators should be established.

- (11) Plant based substances from the agri-food industry and food of non-animal origin no longer intended for human consumption, which are destined to be used as feed are subject to Regulation (EC) No 767/2009¹⁵ and are not regarded as waste for the purposes of that Regulation. Directive 2008/98/EC should therefore not apply to those products and substances when used for feed, and the scope of that Directive needs to be clarified accordingly.
- (12) Member States should take measures to promote prevention of food waste in line with the 2030 Agenda for Sustainable Development, adopted by the United Nations General Assembly on 25 September 2015, and in particular its target of halving food waste by 2030. These measures should aim to prevent food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households. Having regard to the environmental and economic benefits of preventing food waste, Member States should establish specific food waste prevention measures and should measure progress in food waste reduction. To facilitate exchange of good practice across the EU both between Member States and between food business operators, uniform methodologies for such measurement should be established. Reporting on food waste levels should take place on a biennial basis.
- (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. Hence, for most industrial and extractive waste, an industry-oriented approach using Best Available Techniques reference documents and similar instruments to address the specific issues related to the management of a given type of waste is a suitable solution¹⁶. However, industrial and commercial packaging waste should continue to be covered by the requirements of Directive 94/62/EC and Directive 2008/98/EC, including their respective improvements.
- (14) The targets for preparation for re-use and recycling of municipal waste should be increased in order to deliver substantial environmental, economic and social benefits.
- (15) Through a progressive increase of the existing targets for preparation for re-use and recycling of municipal waste, it should be ensured that economically valuable waste materials are re-used and effectively recycled, and that valuable materials found in waste are channelled back into the European economy, thus advancing the Raw Materials Initiative¹⁷ and the creation of a circular economy.

¹⁵ Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p.1).

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.

¹⁷ COM(2008)699 and COM(2014)297.

- (16) Large differences exist between Member States with respect to their waste management performance, particularly as regards recycling of municipal waste. In order to take account of those differences, those Member States which in 2013 recycled less than 20% of their municipal waste according to Eurostat data should be given additional time to comply with the preparing for re-use and recycling targets established for 2025 and 2030. In light of average annual progression rates observed in Member States over the past fifteen years, those Member States would need to increase their recycling capacity at levels that are well-above past averages to meet those targets. In order to ensure that steady progress towards the targets is made and that implementation gaps are tackled in due time, Member States that are given additional time should meet interim-targets and establish an implementation plan.
- (17) In order to ensure the reliability of the data gathered on preparation for re-use it is essential to establish common rules for reporting. Similarly, it is important to lay down more precise rules on how Member States should report what is effectively recycled and can be counted towards the attainment of the recycling targets. To that effect, as a general rule, the reporting on the attainment of the recycling targets must be based on the input to the final recycling process. In order to limit administrative burdens, Member States should be allowed, under strict conditions, to report recycling rates on the basis of the output of sorting facilities. Losses in weight of materials or substances due to physical and/or chemical transformation processes inherent to the final recycling process should not be deducted from the weight of the waste reported as recycled.
- (18) Member States should, for the purposes of calculating whether the preparation for re-use and recycling targets are achieved, be able to take into account products and components that are prepared for re-use by recognised re-use operators and by deposit-refund schemes and the recycling of metals that takes place in conjunction with incineration. In order to ensure a uniform calculation of this data, the Commission will adopt detailed rules on the determination of recognised preparation for re-use operators and deposit-refund schemes, on the quality criteria for recycled metals and on the collection, verification and reporting of data.
- (19) In order to ensure better, timelier and more uniform implementation of this Directive and anticipate implementation weaknesses, an early warning system should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.
- (20) Compliance with the obligation to set up separate collection systems for paper, metal, plastic and glass is essential in order to increase preparing for re-use and recycling rates in Member States. In addition bio-waste should be collected separately to contribute to an increase in preparing for re-use and recycling rates and the prevention of contamination of dry recyclable materials.
- (21) Proper management of hazardous waste still presents a problem in the Union, and data on its treatment are partly missing. It is therefore necessary to strengthen record keeping and traceability mechanisms through the establishment of electronic registries for hazardous waste in the Member States. Electronic data collection should be extended to other types of waste, where appropriate, in order to simplify record-keeping for businesses and administrations and improve the monitoring of waste flows in the Union.
- (22) This Directive sets long-term objectives for the Union's waste management and gives economic operators and Member States a clear direction for the investments needed to

attain the objectives of this Directive. In developing their national waste management strategies and planning investments in waste management infrastructure, Member States should make a sound use of the European Structural and Investment Funds by promoting prevention, re-use and recycling, in line with the waste hierarchy.

- (23) Certain raw materials are of a high importance to the economy of the Union and their supply is associated with a high risk. In order to ensure security of supply of those raw materials and in line with the Raw Materials Initiative and the objectives and targets of the European Innovation Partnership on Raw Materials, Member States should take measures to achieve the best possible management of waste containing significant amounts of those raw materials, taking economic and technological feasibility and environmental benefits into account. The Commission has established a list of critical raw materials for the EU¹⁸. This list is subject to regular review by the Commission.
- (24) To further support effective implementation of the Raw Materials Initiative, Member States should also promote the reuse of products constituting the main sources of raw materials. They should also include in their waste management plans nationally appropriate measures regarding collection and recovery of waste containing significant amounts of these raw materials. The measures should be included in the waste management plans when they are updated for the first time following the entry into effect of this Directive. The Commission will provide information about the relevant product groups and waste streams at EU level. This provision does not preclude the Member States to take measures for other raw materials considered as important to their national economy.
- (25) Littering has direct detrimental impacts on the environment and the wellbeing of citizens, and high clean-up costs are an unnecessary economic burden for society. The introduction of specific measures in waste management plans and proper enforcement by competent authorities should help eradicate this problem.
- (26) To reduce regulatory burdens on small establishments or undertakings, simplification of registration requirements for small establishments or undertakings collecting or transporting small quantities of non-hazardous waste should be introduced. The threshold for quantities of such waste may need to be adapted by the Commission.
- (27) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead compliance monitoring should be exclusively based on the statistical data which Member States report every year to the Commission.
- (28) Statistical data reported by Member States are essential for the Commission to assess compliance with waste legislation across the Member States. The quality, reliability and comparability of statistics should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report. Therefore, when reporting on the achievement of the targets set out in waste legislation, Member States shall use the most recent methodology developed by the Commission and the national statistical offices of the Member States.

¹⁸ COM(2014) 297.

- (29) In order to supplement or amend Directive 2008/98/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Articles 5(2), 6(2), 7(1), 11a(2), 11a(6), 26, 27(1), 27(4), 38(1), 38(2) and 38(3). It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (30) In order to ensure uniform conditions for the implementation of Directive 2008/98/EC, implementing powers should be conferred on the Commission in respect of Articles 9(4), 9(5), 33(2), 35(5) and 37(6). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁹.
- (31) Directive 2008/98/EC should therefore be amended accordingly.
- (32) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents²⁰, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (33) Since the objectives of this Directive, namely to improve waste management in the Union, and thereby contributing to the protection, preservation and improvement of the quality of the environment, the health of the oceans and the safety of seafood by reducing marine litter, and to the prudent and rational utilisation of natural resources across the Union, cannot be sufficiently achieved by the Member States, but can, by reason of the scale or effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2008/98/EC is amended as follows:

(1) in Article 2(2), the following point (e) is added:

'(e) feed materials as defined in Article 3(2)(g) of Regulation (EC) 767/2009 of the European Parliament and of the Council(*)'.

(*) Regulation (EC) 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European

¹⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

²⁰ OJ C 369, 17.12.2011, p. 14.

Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1).';

(2) Article 3 is amended as follows:

(a) the following point 1a is inserted:

'1a. "municipal waste" means

- (a) mixed waste and separately collected waste from households including:
 - paper and cardboard, glass metals, plastics, bio-waste, wood, textiles, waste electrical and electronic equipment, waste batteries and accumulators;
 - bulky waste, including white goods, mattresses, furniture;
 - garden waste, including leaves, grass clipping;
- (b) mixed waste and separately collected waste from other sources that is comparable to household waste in nature, composition and quantity.
- (c) market cleansing waste and waste from street cleaning services, including street sweepings, the content of litter containers, waste from park and garden maintenance.

Municipal waste does not include waste from sewage network and treatment, including sewage sludge and construction and demolition waste;';

(b) the following point 2a is inserted:

'2a. "non-hazardous waste" means waste which displays none of the hazardous properties listed in Annex III;';

(c) point 4 is replaced by the following:

'4. "bio-waste" means biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises, comparable waste from food processing plants and other waste with similar biodegradability properties that is comparable in nature, composition and quantity;';

(d) the following point 4a is inserted:

'4a. "construction and demolition waste" means waste falling under the construction and demolition waste categories referred to in the list of waste adopted pursuant to Article 7;';

(e) point 16 is replaced by the following:

'16. "preparing for re-use" means checking, cleaning or repairing recovery operations, by which waste, products or components of products that have been collected by a recognised preparation for re-use operator or deposit-refund scheme are prepared so that they can be re-used without any other pre-processing;';

(f) the following points 17a and 17b are inserted:

'17a. "final recycling process" means the recycling process which begins when no further mechanical sorting operation is needed and waste materials enter a production process and are effectively reprocessed into products, materials or substances;

17b. "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;';

(3) In Article 4, the following paragraph 3 is added:

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

Member States shall report to the Commission the specific instruments put in place in accordance with this paragraph by [*insert date eighteen months after the entry into force of this Directive*] and every five years following that date.';

(4) Article 5 is amended as follows:

(a) in paragraph 1, the introductory phrase is replaced by the following:

'1. Member States shall ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a in order to establish detailed criteria on the application of the conditions laid down in paragraph 1 to specific substances or objects.';

(c) the following paragraph 3 is added:

'3. Member States shall notify the Commission of technical regulations adopted under paragraph 1 in accordance with Directive 2015/1535/EC of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (*) where so required by that Directive.

(*) OJ L 241, 17.9.2015, p.1.';

(5) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory phrase and point (a) are replaced by the following:

'1. Member States shall ensure that waste which has undergone a recovery operation is considered to have ceased to be waste if it complies with the following conditions:

(a) the substance or object can be used for specific purposes;';

(ii) the second subparagraph is deleted;

(b) paragraphs 2, 3 and 4 are replaced by the following:

'2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a in order to establish detailed criteria on the application of the conditions laid down in paragraph 1 to certain waste. Those detailed criteria shall include limit values for pollutants where necessary and shall take into account any possible adverse environmental effects of the substance or object.

3. Waste which is considered to have ceased to be waste in accordance with paragraph 1 may be considered to be prepared for reuse, recycled or recovered for the purpose of the calculation of the achievement of the targets set out in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU of the European Parliament and of the Council(*) respectively if it has been subject to a preparing for reuse, recycling or recovery in accordance with those Directives.

4. Member States shall notify the Commission of technical regulations adopted under paragraph 1 in accordance with Directive 2015/1535/EC of the European Parliament and of the Council where so required by that Directive.

(*) Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).;

(6) Article 7 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

'1. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to establish the list of waste.';

(b) paragraph 5 is deleted;

(7) Article 8 is amended as follows:

(a) in paragraph 1, the following sub-paragraph is added:

'Such measures may also include the establishment of extended producer responsibility schemes defining specific operational and financial obligations for producers of products.';

(b) the second sentence of paragraph 2 is replaced by the following:

'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 preparation for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures should take into account the impact of products throughout their life cycle.';

(c) the following paragraph 5 is added:

'5. The Commission shall organise an exchange of information between Member States and the actors involved in producer responsibility schemes on the practical implementation of the requirements defined in Article 8a and on best practices to ensure adequate governance and cross-border cooperation of extended producer responsibility schemes. This includes, inter alia, exchange of information on the organisational features and the monitoring of producer responsibility organisations, the selection of waste management operators and the prevention of littering. The Commission shall publish the results of the exchange of information.';

(8) The following Article 8a is inserted:

'Article 8a

General requirements for extended producer responsibility schemes

1. Member States shall ensure that extended producer responsibility schemes established in accordance with Article 8, paragraph 1:

- define in a clear way the roles and responsibilities of producers of products placing goods on the market of the Union, organisations implementing extended producer responsibility on their behalf, private or public waste operators, local authorities and, where appropriate, recognised preparation for re-use operators;
- define measurable waste management targets, in line with the waste hierarchy, aiming to attain at least the quantitative targets relevant for the scheme as laid down in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU;
- establish a reporting system to gather data on the products placed on the Union market by the producers subject to extended producer responsibility. Once these products become waste, the reporting system shall ensure that data is gathered on the collection and treatment of that waste specifying, where appropriate, the waste material flows;
- ensure equal treatment and non-discrimination between producers of products and with regards to small and medium enterprises.

2. Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8, paragraph 1, are informed about the available waste collection systems and the prevention of littering. Member States shall also take measures to create incentives for the waste holders to take part in the separate collection systems in place, notably through economic incentives or regulations, when appropriate.

3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:

- (a) has a clearly defined geographical, product and material coverage;
- (b) has the necessary operational and financial means to meet its extended producer responsibility obligations;
- (c) puts in place an adequate self-control mechanism, supported by regular independent audits to appraise:
 - the organisation's financial management, including the compliance with the requirements laid down in paragraph 4(a) and (b);
 - the quality of data collected and reported in accordance with paragraph 1, third indent, and the requirements of Regulation (EC) No 1013/2006.
- (d) makes publicly available the information about:
 - its ownership and membership;
 - the financial contributions paid by the producers;
 - the selection procedure for waste management operators.

4. Member States shall take the necessary measures to ensure that the financial contributions paid by the producer to comply with its extended producer responsibility obligations:

(a) cover the entire cost of waste management for the products it puts on the Union market, including all the following:

- costs of separate collection, sorting and treatment operations required to meet the waste management targets referred to in paragraph 1, second indent, taking into account the revenues from re-use or sales of secondary raw material from their products;
- costs of providing adequate information to waste holders in accordance with paragraph 2;
- costs of data gathering and reporting in accordance with paragraph 1, third indent.

(b) are modulated on the basis of the real end-of-life cost of individual products or groups of similar products, notably by taking into account their re-usability and recyclability;

(c) are based on the optimised cost of the services provided in cases where public waste management operators are responsible for implementing operational tasks on behalf of the extended producer responsibility scheme.

5. Member States shall establish an adequate monitoring and enforcement framework with the view to ensure that the producers of products are implementing their extended producer responsibility obligations, the financial means are properly used, and all actors involved in the implementation of the scheme report reliable data.

Where, in the territory of a Member State, multiple organisations implement extended producer responsibility obligations on behalf of the producers, Member State shall establish an independent authority to oversee the implementation of extended producer responsibility obligations.

6. Member States shall establish a platform to ensure a regular dialogue between the stakeholders involved in the implementation of extended producer responsibility, including private or public waste operators, local authorities and, where applicable, recognised preparation for re-use operators.'

7. Member States shall take measures to ensure that extended producer responsibility schemes that have been established before [*insert date eighteen months after the entry into force of this Directive*], comply with the provisions of this article within twenty-four months of that date.';

(9) Article 9 is replaced by the following:

'Article 9

Prevention of waste

1. Member States shall take measures to prevent waste generation. These measures shall:

- encourage the use of products that are resource efficient, durable, repairable and recyclable;
- identify and target products that are the main sources of raw materials of a high importance to the economy of the Union and whose supply is associated with a high risk to prevent that those materials become waste;
- encourage the setting up of systems promoting reuse activities, including in particular for electrical and electronic equipment, textiles and furniture;

- reduce waste generation in processes related to industrial production, extraction of minerals and construction and demolition, taking into account best available techniques;
- reduce the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households.

2. Member States shall monitor and assess the implementation of the waste prevention measures. For that purpose, they shall use appropriate qualitative or quantitative indicators and targets, notably on the per capita quantity of municipal waste that is disposed of or subject to energy recovery.

3. Member States shall monitor and assess the implementation of their food waste prevention measures by measuring food waste on the basis of methodologies established in accordance with paragraph 4.

4. The Commission may adopt implementing acts to establish indicators to measure the overall progress in the implementation of waste prevention measures. In order to ensure uniform measurement of the levels of food waste, the Commission shall adopt an implementing act to establish a common methodology, including minimum quality requirements. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).

5. Every year, the European Environment Agency shall publish a report describing the evolution as regards the prevention of waste generation for each Member State and for the Union as a whole, including on decoupling of waste generation from economic growth and on the transition towards a circular economy.;

(10) Article 11 is amended as follows:

(a) in paragraph 1, the first and second subparagraphs are replaced by the following:

'1. Member States shall take measures, as appropriate, to promote preparing for re-use activities, notably by encouraging the establishment of and support for re-use and repair networks and by facilitating the access of such networks to waste collection points, and by promoting the use of economic instruments, procurement criteria, quantitative objectives or other measures.

Member States shall take measures to promote high quality recycling and, to this end, shall set up separate collection of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors and to attain the targets set out in paragraph 2.;

(b) in paragraph 1, the following sub-paragraph is inserted:

'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.;

(c) in paragraph 2, point (b) is replaced by the following:

'(b) by 2020, the preparing for re-use, recycling and backfilling of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight;';

(d) in paragraph 2, the following points (c) and (d) are added:

'(c) by 2025, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 60% by weight;

(d) by 2030, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 65% by weight.';

(e) paragraphs 3 and 4 are replaced by the following:

'3. Estonia, Greece, Croatia, Latvia, Malta, Romania and Slovakia may obtain five additional years for the attainment of the targets referred to in paragraph 2(c) and (d). The Member State shall notify the Commission of its intention to make use of this provision at the latest 24 months before the respective deadlines laid down in paragraphs 2(c) and (d). In the event of an extension, the Member State shall take the necessary measures to increase the preparing for re-use and the recycling of municipal waste to a minimum of 50% and 60% by weight, by 2025 and 2030 respectively.

The notification shall be accompanied by an implementation plan presenting the measures needed to ensure compliance with the targets before the new deadline. The plan shall also include a detailed timetable for the implementation of the proposed measures and an assessment of their expected impacts.

4. By 31 December 2024 at the latest, the Commission shall examine the target laid down in paragraph 2(d) with a view to increasing it, and considering the setting of targets for other waste streams. To this end, a report of the Commission, accompanied by a proposal, if appropriate, shall be sent to the European Parliament and the Council.';

(f) paragraph 5 is deleted.

(11) the following Article 11a is inserted:

'Article 11a

Rules on the calculation of the attainment of the targets laid down in Article 11

'1. For the purpose of calculating whether the targets laid down in Article 11(2)(c) and (d) and 11(3) have been attained,

(a) the weight of the municipal waste recycled shall be understood as the weight of the input waste entering the final recycling process;

(b) the weight of the municipal waste prepared for reuse shall be understood as the weight of municipal waste that has been recovered or collected by a recognised preparation for re-use operator and has undergone all necessary checking, cleaning and repairing operations to enable re-use without further sorting or pre-processing;

(c) Member States may include products and components prepared for re-use by recognised preparation for re-use operators or deposit-refund schemes. For the calculation of the adjusted rate of municipal waste prepared for re-use and recycled taking into account the weight of the products and components prepared for re-use, Member States shall use verified data from the operators and apply the formula set out in Annex VI.

2. In order to ensure harmonised conditions for the application of paragraph 1(b) and (c) and of Annex VI, the Commission shall adopt delegated acts in accordance with Article 38a establishing minimum quality and operational requirements for the

determination of recognised preparation for re-use operators and deposit-refund schemes, including specific rules on data collection, verification and reporting.

3. By way of derogation from paragraph 1, the weight of the output of any sorting operation may be reported as the weight of the municipal waste recycled provided that:

(a) such output waste is sent into a final recycling process;

(b) the weight of materials or substances that are not subject to a final recycling process and that are disposed or subject to energy recovery remains below 10% of the total weight to be reported as recycled.

4. Member States shall establish an effective system of quality control and traceability of the municipal waste to ensure that conditions laid down in paragraph 3(a) and (b) are met. The system may consist of either electronic registries set up pursuant to Article 35(4), technical specifications for the quality requirements of sorted waste or any equivalent measure to ensure the reliability and accuracy of the data gathered on recycled waste.

5. For the purposes of calculating whether the targets laid down in Article 11(2)(c) and (d) and Article 11(3) have been achieved Member States may take into account the recycling of metals that takes place in conjunction with incineration in proportion to the share of the municipal waste incinerated provided that the recycled metals meet certain quality requirements.

6. In order to ensure harmonised conditions for the application of paragraph 5, the Commission shall adopt delegated acts in accordance with Article 38a establishing a common methodology for the calculation of the weight of metals that have been recycled in conjunction with incineration, including, the quality criteria for the recycled metals.

7. Waste sent to another Member State for the purposes of preparing for re-use, recycling or backfilling in that other Member State may only be counted towards the attainment of the targets laid down in Articles 11(2) and (3) by the Member State in which that waste was collected.

8. Waste exported from the Union for preparation for re-use or recycling shall only count towards the attainment of the targets laid down in Articles 11(2) and (3) by the Member State in which it was collected if the requirements of paragraph 4 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of waste outside the Union took place in conditions that are equivalent to the requirements of the relevant Union environmental legislation.';

(12) the following Article 11b is inserted:

'Article 11b

Early warning report

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the achievement of the targets laid down in Articles 11(2)(c) and (d) and (3) three years before each time-limit laid down in those provisions at the latest.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the achievement of the targets by each Member State;
- (b) a list of Member States at risk of not achieving the targets within the respective time limits accompanied by appropriate recommendations for the Member States concerned.;

(13) Article 22 is replaced by the following:

'Member States shall ensure the separate collection of bio-waste where technically, environmentally and economically practicable and appropriate to ensure the relevant quality standards for compost and to attain the targets set out in Article 11(2)(a), (c) and (d) and 11(3).

They shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage the following:

- (a) the recycling, including composting, and digestion of bio-waste;
- (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.;

(14) the following subparagraphs are added to Article 26:

'Member States may exempt the competent authorities from keeping a register of establishments or undertakings which collect or transport quantities of non-hazardous waste not exceeding 20 tonnes annually.

The Commission may adopt delegated acts in accordance with Article 38a in order to adapt the threshold for quantities of non-hazardous waste.;

(15) Article 27 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a setting out technical minimum standards for treatment activities which require a permit pursuant to Article 23 where there is evidence that a benefit in terms of the protection of human health and the environment would be gained from such minimum standards.;

(b) paragraph 4 is replaced by the following:

'4. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a setting out the minimum standards for activities that require registration pursuant to points (a) and (b) of Article 26 where there is evidence that a benefit in terms of the protection of human health and the environment or in avoiding disruption to the internal market would be gained from such minimum standards.;

(16) Article 28 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) point (b) is replaced by the following:

'(b) existing waste collection schemes and major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of raw materials that are of a high importance to the economy of the Union and whose supply is associated with a high risk, or waste streams addressed by specific Union legislation.;

(ii) the following point (f) is added:

'(f) measures to combat all forms of littering and to clean up all types of litter.';

(b) paragraph 5 is replaced by the following:

'5. Waste management plans shall conform to the waste planning requirements laid down in Article 14 of Directive 94/62/EC, the targets laid down in Article 11(2) and (3) of this Directive and the requirements in Article 5 of Directive 1999/31/EC.';

(17) Article 29 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

'1. Member States shall establish waste prevention programmes setting out waste prevention measures in accordance with Articles 1, 4 and 9.';

(b) paragraphs 3 and 4 are deleted;

(18) Article 33, paragraph 2 is replaced by the following:

'2. The Commission shall adopt implementing acts to establish the format for notifying the information on the adoption and substantial revisions of those plans and programmes. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(19) Article 35 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The establishments or undertakings referred to in Article 23(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 that waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste. They shall make that data available to the competent authorities through the electronic registry or registries to be established pursuant to paragraph 4.';

(b) the following paragraphs 4 and 5 are added:

'4. Member States shall set up an electronic registry or coordinated registries to record the data on hazardous waste referred to in paragraph 1 covering the entire geographical territory of the Member State concerned. Member States may establish such registries for other waste streams, in particular those waste streams for which targets are set in Union legislation. Member States shall use the data on waste reported by industrial operators in the European Pollutant Release and Transfer Register set up under Regulation (EC) No 166/2006 of the European Parliament and of the Council (*).

5. The Commission may adopt implementing acts to establish minimum conditions for the operation of such registries. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).

(*) Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 33, 4.2.2006, p.1).';

(20) In Article 36, paragraph 1 is replaced by the following:

'1. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste, including littering.';

(21) Article 37 is replaced by the following:

'Article 37

Reporting

1. Member States shall report the data concerning the implementation of Article 11(2)(a) to (d) and Article 11(3) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 6. The first reporting shall cover the data for the period from 1 January 2020 to 31 December 2020.

2. Member States shall report the data concerning the implementation of Article 9(4) to the Commission every second year. They shall report this data electronically within 18 months of the end of the reporting period for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 6. The first reporting shall cover the period from 1 January 2020 to 31 December 2021.

3. For the purpose of verifying compliance with Article 11(2)(b), the amount of waste used for backfilling operations shall be reported separately from the amount of waste prepared for re-use or recycled. The reprocessing of waste into materials that are to be used for backfilling operations shall be reported as backfilling.

4. The data reported by the Member State in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 11a(4).

5. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every three years.

6. The Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraphs 1 and 2 and for the reporting on backfilling operations. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(22) Article 38 is replaced by the following:

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

The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to specify the application of the formula for incineration facilities referred to in point R1 of Annex II. Local climatic conditions may be taken into account, such as the severity of the cold and the need for heating insofar as they influence the amounts of energy that can technically be used or produced in the form of electricity, heating, cooling or processing steam. Local conditions of the outermost regions as recognised in the third subparagraph of Article 349 of the Treaty on the

Functioning of the European Union and of the territories mentioned in Article 25 of the 1985 Act of Accession may also be taken into account.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to amend Annexes I to V in the light of scientific and technical progress.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a necessary to amend Annexes VI.;

(23) the following Article 38a is inserted:

'Article 38a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt the delegated acts referred to in Articles 5(2), 6(2), 7(1), 11a(2), 11a(6), 26, 27(1), 27(4), 38(1), 38(2) and 38(3) shall be conferred on the Commission for an indeterminate period of time from [*enter date of entry into force of this Directive*].

3. The delegation of power referred to in Articles 5(2), 6(2), 7(1), 11a(2), 11a(6), 26, 27(1), 27(4), 38(1), 38(2) and 38(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 5(2), 6(2), 7(1), 11a(2), 11a(6), 26, 27(1), 27(4), 38(1), 38(2) and 38(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.;

(24) Article 39 is replaced by the following:

'Article 39

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and the Council (*).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning

mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).';

(25) Annex VI is added in accordance with the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert date eighteen months after the entry into force of this Directive*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

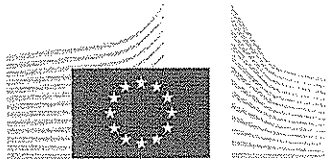
Done at Brussels,

For the European Parliament

The President

For the Council

The President



EUROPEAN
COMMISSION

Brussels, 2.12.2015
COM(2015) 595 final

ANNEX 1

ANNEX

to the

Proposal for a Directive of the European Parliament and of the Council

amending Directive 2008/98/EC on waste

{SWD(2015) 259 final}

{SWD(2015) 260 final}

ANNEX VI

Calculation method for preparing for re-use of products and components for the purpose of Article 11(2)(c) and (d) and Article 11 (3)

In order to calculate the adjusted rate of recycling and preparation for re-use in accordance with Article 11(2)(c) and (d) and Article 11(3), Member States shall use the following formula:

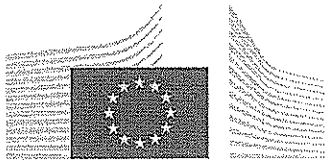
$$E = \frac{(A+R)*100}{(P+R)}$$

E: adjusted recycling and re-use rate in a given year;

A: weight of municipal waste recycled or prepared for re-use in a given year;

R: weight of products and components prepared for re-use in a given year;

P: weight of municipal waste generated in a given year.



EUROPEAN
COMMISSION

Brussels, 2.12.2015
COM(2015) 596 final

2015/0276 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 94/62/EC on packaging and packaging waste

(Text with EEA relevance)

{SWD(2015) 259 final}

{SWD(2015) 260 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1 General Context

The Union's economy currently loses a significant amount of potential secondary raw materials which are found in waste streams. In 2013, total waste generation in the EU amounted to approximately 2.5 billion tons of which 1.6 billion tons were not reused or recycled and therefore lost for the European economy. It is estimated that an additional 600 million tons could be recycled or reused. By way of example, only a limited share (43%) of the municipal waste generated in the Union was recycled, with the rest being landfilled (31%) or incinerated (26%). The Union thus misses out on significant opportunities to improve resource efficiency and create a more circular economy.

With respect to waste management, the Union also faces large differences amongst its Member States. In 2011, while six Member States landfilled less than 3% of their municipal waste, 18 landfilled over 50%, with some exceeding 90%. This uneven situation needs to be redressed as a matter of urgency.

The proposals to amend Directive 2008/98/EC on waste¹, Directive 94/62/EC on packaging and packaging waste², Directive 1999/31/EC on the landfill of waste³, Directive 2000/53/EC on end-of-life vehicles⁴, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators⁵ and Directive 2012/19/EU on waste electrical and electronic equipment⁶ form part of a Circular Economy Package which also includes a Commission Communication "Closing the loop – An EU action plan for the Circular Economy".

1.2 Grounds for and objectives of the proposal

Recent trends suggest that further progress on resource efficiency is possible and that it can bring major economic, environmental and social benefits. Turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy.

The legally binding targets in EU waste legislation have been a key driver to improve waste management practices, stimulate innovation in recycling, limit the use of landfilling, and create incentives to change consumer behaviour. Taking waste policy further can bring significant benefits: sustainable growth and job creation, reduced greenhouse gas emissions, direct savings linked with better waste management practices, and a better environment.

The proposal to amend Directive 2008/98/EC responds to the legal obligation to review the waste management targets in that Directive. The proposals which form part of the Circular Economy Package and amend the six Directives mentioned above build in part on the

¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

² Directive 94/62/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

⁴ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles (OJ L 269, 21.10.2000, p. 34-43).

⁵ 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 and repealing Directive 91/157/EEC (OJ L 266, 26.09.2006, p. 1-14).

⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38-71).

proposal that the Commission tabled in July 2014 and subsequently withdrew in February 2015. They are in line with the objectives of the Resource Efficiency Roadmap⁷ and the 7th Environment Action Programme⁸, including full implementation of the waste hierarchy⁹ in all Member States, decline in absolute and per capita waste generation, ensuring high quality recycling and the use of recycled waste as a major, reliable source of raw materials for the Union. They also contribute to the implementation of the EU Raw Materials Initiative¹⁰ and address the need to prevent food waste. In addition, these proposals simplify the reporting requirements included in all six Directives.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1 Studies

The proposals and the accompanying impact assessment assess technological, socio-economic and cost-benefit aspects related to the implementation and further development of EU waste legislation. A supplement to the Impact Assessment was produced to analyse the potential effects of additional variants of the main policy options defined in the Impact Assessment.

2.2 Internal consultation

Within the Commission an Impact Assessment Steering Group composed of various Commission services (SG, ECFIN, GROW, CLIMA, JRC, and ESTAT) followed the preparation of the legislative proposals.

2.3 External consultation

An indicative list of issues to be tackled was developed by the Commission and the first interviews with key stakeholders started in February 2013. An online public consultation in line with the minimum standards for consultation was launched in June 2013, closing in September 2013. 670 responses were submitted, reflecting high public concern about the waste management situation in the EU and high expectations for EU action in this area. A specific consultation of Member States was held between June and September 2015 as well as a broader consultation on the circular economy.

2.4 Impact assessment

An impact assessment report and an executive summary were published together with the proposal adopted in July 2014¹¹. The impact assessment, which remains valid as the main analytical basis for the revised legislative proposals, evaluates the main environmental, social and economic impacts of various policy options to improve waste management in the EU. Various levels of ambition are assessed and compared to a "baseline scenario" in order to identify the most appropriate instruments and targets while minimizing costs and maximizing benefits.

The Commission's Impact Assessment Board delivered a positive opinion on the impact assessment on 8 April 2014, while making a number of recommendations to fine-tune the report. The Board requested to further clarify the problem definition and the need for new

⁷ COM(2011) 571.

⁸ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

⁹ The waste hierarchy gives the preference to prevention first followed by reuse, recycling before energy recovery and disposal which includes landfilling and incineration without energy recovery.

¹⁰ COM(2008) 699 and COM(2014)297.

¹¹ COM(2014)397.

mid-term targets, strengthen the arguments in favour of a landfill ban from a subsidiarity and proportionality point of view and of uniform targets for all Member States, and explain in more detail how the varying performances of Member States are taken into account in the proposal.

The impact assessment led to the conclusion that a combination of Options will bring the following benefits:

- Administrative burden reduction in particular for small establishments or undertakings, simplification and better implementation including by keeping targets ‘fit for purpose’;
- Job creation – more than 170.000 direct jobs could be created by 2035, most of them impossible to delocalize outside the EU;
- GHG emission reduction – more than 600 millions of tons of green house gas could be avoided between 2015 and 2035;
- Positive effects on the competitiveness of the EU waste management and recycling sectors as well as on the EU manufacturing sector (better extended producer responsibility schemes, reduced risks associated with raw material access);
- Reinjection into the EU economy of secondary raw materials which in turn will reduce the dependency of the EU on raw materials imports.

An analytical note supplementing the impact assessment was issued together with the legislative proposal. In this note, a number of additional options and variants were analysed with the aim to better take into account the different starting positions of each Member State.

3. LEGAL ELEMENTS OF THE PROPOSALS

3.1 Summary of the proposed action

The main elements of the proposals to amend EU waste legislation are:

- Alignment of definitions;
- Increase of the preparing for re-use and recycling target for municipal waste to 65% by 2030;
- Increase of the preparing for reuse and recycling targets for packaging waste and the simplification of the set of targets;
- Gradual limitation of the landfilling of municipal waste to 10% by 2030;
- Greater harmonisation and simplification of the legal framework on by-products and end-of-waste status;
- New measures to promote prevention, including for food waste, and re-use;
- Introduction of minimum operating conditions for Extended Producer Responsibility;
- Introduction of an Early Warning System for monitoring compliance with the recycling targets;
- Simplification and streamlining of reporting obligations;
- Alignment to Articles 290 and 291 TFEU on delegated and implementing acts.

3.2 Legal basis and right to act

The proposals amend six Directives addressing the management of different wastes. The proposals to amend Directive 2008/98/EC, Directive 1999/31/EC, Directive 2000/53/EC,

Directive 2006/66/EC and Directive 2012/19/EU are based on Article 192(1) TFEU, whilst the proposal to amend Directive 94/62/EC is based on Article 114 TFEU.

Article 11(2) of Directive 2008/98/EC sets down a 50% target for preparing for re-use and recycling of household and similar waste and a 70% target for preparing for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by 2020. Pursuant to Article 11(4), by 31 December 2014 at the latest, the Commission had to examine those targets with a view to, if necessary, reinforcing them and considering the setting of targets for other waste streams, taking into account the relevant environmental, economic and social impacts of setting the targets. According to Article 9(c), the Commission had to set, by the end of 2014, waste prevention and decoupling objectives for 2020, based on best available practices including, if necessary, a revision of the indicators referred to in Article 29(4). Finally, pursuant to Article 37(4), in the first report that intervenes by 12 December 2014, the Commission had to assess a number of measures including producer responsibility schemes for specific waste streams, targets, indicators and measures related to recycling, as well as material and energy recovery operations that may contribute to fulfilling the objectives set in Articles 1 and 4 more effectively.

Article 5(2) of Directive 1999/31/EC sets down three targets for the diversion of biodegradable municipal waste from landfills and bans the landfilling of certain waste streams. The last target for the diversion of biodegradable municipal waste from landfills has to be met by the Member States by 16 July 2016. Pursuant to Article 5(2), it shall be re-examined by 16 July 2014 with a view to confirming or amending it in order to ensure a high level of environmental protection and in light of the practical experience gained by Member States in the pursuance of the two previous targets.

Article 6(1) of Directive 94/62/EC sets down targets for the recovery and recycling of packaging waste which, pursuant to Article 6(5), shall be fixed every five years based on the practical experience gained in Member States and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

3.3 Subsidiarity and proportionality principle

The proposals are in conformity with the subsidiarity and proportionality principles set out in Article 5 of the Treaty on the European Union. They are limited to amending the abovementioned Directives by providing a framework establishing shared objectives, while leaving Member States free to decide about precise implementation methods.

3.4 Explanatory documents

The Commission considers that documents explaining Member States' measures transposing the Directives are necessary in order to improve the quality of information on the transposition of the Directives.

Waste legislation is often transposed in a highly decentralised manner in the Member States, including on the regional or local level and in multiple legal acts, depending on the administrative structure of a Member State. As a result, in transposing the amended Directives Member States may have to amend a wide variety of legislative acts at national, regional and local levels.

The proposals amend six different waste Directives and affects an important number of legally binding obligations, including a comprehensive amendment of the targets contained in Directive 2008/98/EC, Directive 1999/31/EC and Directive 94/62/EC and a simplification of Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU. This is a complex review of waste legislation that will potentially affect a number of pieces of national legislation.

The revised targets for waste management contained in the amended Directives are interconnected, and should be carefully transposed into national legislation and later on incorporated into national waste management systems.

The proposed provisions will affect a wide range of private and public stakeholders in the Member States and will have an important impact on future investments in waste management infrastructure. The complete and correct transposition of the new legislation is essential to guarantee that their objectives (i.e. protecting human health and the environment, increased resource efficiency, and ensuring the functioning of the internal market and avoiding obstacles to trade and restriction of competition within the EU) are achieved.

The requirement to provide explanatory documents may create an additional administrative burden on some Member States. However, explanatory documents are necessary to allow effective verification of complete and correct transposition, which is essential for the reasons mentioned above, and there are no less burdensome measures to allow efficient verification. Moreover, explanatory documents can contribute significantly to reducing the administrative burden of compliance monitoring by the Commission; without them, considerable resources and numerous contacts with national authorities would be required to track the methods of transposition in all Member States.

In view of the above it is appropriate to ask Member States to accompany the notification of their transposition measures with one or more documents explaining the relationship between the provisions of the Directives amending EU waste legislation and the corresponding parts of national transposition instruments.

3.5 Delegated and implementing powers of the Commission

The delegated and implementing powers of the Commission are identified and the corresponding procedures for adoption of these acts are established in paragraphs 4, 5, 6, 9, 11, 14, 15, 18, 19, 21, 22 of Article 1 of the proposal concerning Directive 2008/98/EC, paragraphs 4, 6, 7, 9, 10 of Article 1 of the proposal concerning Directive 94/62/EC, paragraphs 6 and 7 of Article 1 of the proposal concerning Directive 1999/31/EC and the amendments proposed in Articles 1 and 3 of the proposal concerning Directives 2000/53/EC and 2012/19/EU.

4. BUDGETARY IMPLICATION

The proposals will not have an impact on the European Union budget and is therefore not accompanied by the financial statement provided for under Article 31 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No1605/2002).

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 94/62/EC on packaging and packaging waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee¹²,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent and rational utilisation of natural resources and promoting a more circular economy.
- (2) The targets laid down in Directive 94/62/EC of the European Parliament and of the Council¹³ for the recovery and recycling of packaging and packaging waste should be amended by increasing the preparing for re-use and recycling of packaging waste in order to better reflect the Union's ambition to move towards a circular economy.
- (3) Furthermore, in order to ensure greater coherence in waste legislation, the definitions in Directive 94/62/EC should be aligned to those of Directive 2008/98/EC of the European Parliament and of the Council¹⁴ applicable to waste in general.
- (4) Clear environmental, economic and social benefits would be derived from further increasing the targets laid down in Directive 94/62/EC for preparation for re-use and recycling of packaging waste.
- (5) Through a progressive increase of the existing targets on preparing for re-use and recycling of packaging waste, it should be ensured that economically valuable waste materials are progressively and effectively recovered through proper waste management and in line with the waste hierarchy. That way it should be ensured that valuable materials found in waste are returned into the European economy, thus

¹² OJ C , , p. .

¹³ Directive 94/62/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

¹⁴ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

making progress in the implementation of the Raw Materials Initiative¹⁵ and the creation of a circular economy.

- (6) Many Member States have not yet completely developed the necessary waste management infrastructure. It is therefore essential to set clear policy objectives in order to avoid locking recyclable materials at the bottom of the waste hierarchy.
- (7) With the combination of recycling targets and landfill restrictions laid down in Directives 2008/98/EC and 1999/31/EC, the Union targets for energy recovery and the recycling targets for packaging waste laid down in Directive 94/62/EC are no longer necessary.
- (8) This Directive sets long-term objectives for the Union's waste management and gives the economic operators and the Member States a clear direction for the necessary investments to attain the objectives of this Directive. In developing their national waste management strategies and planning investments in waste management infrastructure, Member States should make a sound use of the European Structural and Investment Funds in line with the waste hierarchy by promoting prevention, re-use and recycling.
- (9) Targets for the recycling of plastic packaging waste for 2025 have been set taking into account what was technically feasible at the time of the revision of the Directive; the Commission may propose revised levels of the targets for plastics for 2030 based on a review of progress made by Member States towards reaching those targets, taking into account the evolution of the types of plastics placed on the market and the development of new recycling technologies and the demand for recycled plastics.
- (10) Separate recycling targets should be set for ferrous metals and aluminium in order to achieve significant economic and environmental benefits because more aluminium would be recycled leading to significant energy and carbon dioxide savings. The existing preparing for re-use and recycling target for metal packaging should therefore be split into separate targets for those two types of waste.
- (11) Member States should, for the purposes of calculating whether the preparation for re-use and recycling targets are achieved, be able to take into account products and components that are prepared for re-use by recognised preparation for re-use operators and deposit-refund schemes. To ensure harmonised conditions for those calculations, the Commission will adopt detailed rules on the determination of recognised preparation for re-use operators and deposit-refund schemes and on the collection, verification and reporting of data.
- (12) In order to ensure the reliability of the data gathered on preparation for re-use it is essential to establish common rules for reporting. Similarly, it is important to lay down more precisely the rules according to which Member States should report what is effectively recycled and can be counted towards the attainment of the recycling targets. To that effect, as a general rule, the reporting on the attainment of the recycling targets must be based on the input to the final recycling process. In order to limit administrative burdens, Member States should be allowed, under strict conditions, to report recycling rates on the basis of the output of sorting facilities. Losses in weight of materials or substances due to physical and/or chemical transformation processes inherent to the final recycling process should not be deducted from the weight of the waste reported as recycled.

¹⁵ COM(2013) 442.

- (13) In order to ensure better, timelier and more uniform implementation of this Directive and anticipate implementation weaknesses, an early warning system should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.
- (14) Statistical data reported by Member States are essential for the Commission to assess compliance with waste legislation across the Member States. The quality, reliability and comparability of statistics should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report.
- (15) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring good implementation, and are generating unnecessary administrative burden. It is therefore appropriate to repeal provisions obliging Member States to produce such reports and for compliance monitoring purposes use exclusively the statistical data which Member States report every year to the Commission.
- (16) Reliable reporting of statistical data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among Member States. Therefore, when preparing the reports on compliance with the targets set out in Directive 94/62/EC, Member States should be required to use the most recent methodology developed by the Commission and the national statistical offices of the Member States.
- (17) In order to supplement or amend Directive 94/62/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Articles 6a(2), 6a(5), 11(3), 19(2) and 20. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (18) In order to ensure uniform conditions for the implementation of Directive 94/62/EC, implementing powers should be conferred on the Commission in respect of Articles 12(3d) and 19. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁶.
- (19) Directive 94/62/EC should therefore be amended accordingly.
- (20) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹⁷, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (21) Since the objectives of this Directive, namely on the one hand, to prevent any impact from packaging and packaging waste on the environment or to reduce such impact,

¹⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

¹⁷ OJ C 369, 17.12.2011, p. 14.

thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Union, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 94/62/EC is amended as follows:

(1) Article 3 is amended as follows:

(a) in point 1, the following text is deleted:

'The Commission shall, as appropriate, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).';

(b) point 2 is replaced by the following:

'2. 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste laid down in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council(*)';

(*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).';

(c) points 3 to 10 are deleted;

(d) the following second paragraph is added:

'In addition, the definitions of 'waste', 'waste producer', 'waste holder', 'waste management', 'collection', 'separate collection', 'prevention', 're-use', 'treatment', 'recovery', 'preparing for re-use', 'recycling', 'final recycling process' and 'disposal' laid down in Article 3 of Directive 2008/98/EC shall apply.';

(2) in the second subparagraph of Article 4(1), the first sentence is replaced by the following:

'Such other measures may consist of national programmes, incentives through extended producer responsibility schemes to minimise the environmental impact of packaging or similar actions adopted, if appropriate, in consultation with economic operators, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention. They shall comply with the objectives of this Directive as defined in Article 1(1).';

(3) Article 6 is amended as follows:

(a) the title is replaced by 'Recovery, re-use and recycling';

(b) in paragraph 1, the following points (f) to (i) are added:

(f) no later than 31 December 2025 a minimum of 65% by weight of all packaging waste will be prepared for reuse and recycled;

(g) no later than 31 December 2025 the following minimum targets by weight for preparing for reuse and recycling will be met regarding the following specific materials contained in packaging waste:

(i) 55 % of plastic;

(ii) 60% of wood;

(iii) 75% of ferrous metal;

(iv) 75% of aluminium;

(v) 75% % of glass;

(vi) 75% of paper and cardboard;

(h) no later than 31 December 2030 a minimum of 75% by weight of all packaging waste will be prepared for reuse and recycled;

(i) no later than 31 December 2030 the following minimum targets by weight for preparing for reuse and recycling will be met regarding the following specific materials contained in packaging waste:

(i) 75% of wood;

(ii) 85% of ferrous metal;

(iii) 85% of aluminium;

(iv) 85% of glass;

(v) 85% of paper and cardboard.';

(c) paragraphs 2 and 3 are replaced by the following:

'2. Packaging waste exported from the Union shall only be counted towards the attainment of the targets laid down in paragraph 1 by the Member State in which the packaging waste was collected if the requirements of Article 6a (4) are met and if, in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council(*), the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of waste outside the Union took place in conditions that are equivalent to the requirements of the relevant Union environmental legislation.

'3. Packaging waste sent to another Member State for the purposes of preparing for reuse, recycling or recovery in that other Member State may only be counted towards the attainment of the targets laid down in paragraph 1(f) to (i) by the Member State in which the packaging waste was collected.

(*). Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).';

(d) paragraphs 5, 8, and 9 are deleted;

(4) the following Article 6a is inserted:

'Article 6a

Rules on the calculation of the attainment of the targets laid down in Article 6

'1. For the purpose of calculating whether the targets laid down in Article 6(1)(f) to (i) have been attained,

(a) the weight of the packaging waste recycled shall be understood as the weight of the input waste entering the final recycling process;

(b) the weight of the packaging waste prepared for reuse shall be understood as the weight of packaging waste that has been recovered or collected by a recognised preparation for re-use operator and has undergone all necessary checking, cleaning and repairing operations to enable re-use without further sorting or pre-processing;

(c) Member States may include products and components prepared for re-use by recognised preparation for re-use operators or deposit-refund schemes. For the calculation of the adjusted rate of packaging waste prepared for re-use and recycled taking into account the weight of the products and components prepared for re-use, Member States shall use verified data from the operators and apply the formula set out in Annex IV.

2. In order to ensure harmonised conditions for the application of paragraph 1(b) and (c) and of Annex IV, the Commission shall adopt delegated acts in accordance with Article 21a establishing minimum quality and operational requirements for the determination of recognised preparation for re-use operators and deposit-refund schemes, including specific rules on data collection, verification and reporting.

3. By way of derogation from paragraph 1, the weight of the output of any sorting operation may be reported as the weight of the packaging waste recycled provided that:

(a) such output waste is sent into a final recycling process;

(b) the weight of materials or substances that are not subject to a final recycling process and that are disposed or subject to energy recovery remains below 10% of the total weight to be reported as recycled.

4. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that conditions laid down in paragraph 3(a) and (b) are met. The system may consist of either electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC, technical specifications for the quality requirements of sorted waste or any equivalent measure to ensure the reliability and accuracy of the data gathered on recycled waste.

5. For the purposes of calculating whether the targets laid down in Article 6(1)(f) to (i) have been achieved Member States may take into account the recycling of metals that takes place in conjunction with incineration in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality requirements. Member States shall use the common methodology established in accordance with Article 11a(6) of Directive 2008/98/EC.';

(5) the following Article 6b is inserted:

'Article 6b

Early warning report

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the achievement of the targets laid down in Article 6(1)(f) to (i) three years before each time-limit laid down in those provisions at the latest.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the achievement of the targets by each Member State;
- (b) a list of Member States at risk of not achieving the targets within the respective time limits accompanied by appropriate recommendations for the Member States concerned.';

(6) Article 11(3) is replaced by the following:

'3. The Commission shall be empowered to adopt delegated acts in accordance with Article 21a to determine the conditions under which the concentration levels referred to in paragraph 1 are not to apply to recycled materials and to product loops which are in a closed and controlled chain, as well as to determine the types of packaging which are exempted from the requirement laid down in the third indent of paragraph 1.';

(7) Article 12 is amended as follows:

(a) the title is replaced by 'Information systems and reporting';

(b) paragraph 2 is replaced by the following:

'2. The databases provided for in paragraph 1 shall include the data listed in Annex III and shall provide in particular information on the magnitude, characteristics and evolution of the packaging and packaging waste flows, including information on the toxicity or danger of packaging materials and components used for their manufacture at the level of individual Member States.';

(c) paragraph 3 is deleted;

(d) the following paragraphs 3a, 3b, 3c and 3d are inserted:

'3a. Member States shall report the data concerning the attainment of the targets laid down in Article 6(1)(a) to (i) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected.

The data shall be reported in the format established by the Commission in accordance with paragraph 3d. The first reporting shall cover data for the period from 1 January [*enter year of entry into force of this Directive + 1 year*] to 31 December [*enter year of entry into force of this Directive + 1 year*].

3b. The data reported by the Member States in accordance with this Article shall be accompanied by a quality check report and a report on the implementation of Article 6a(4).

3c. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall cover an assessment of the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and

consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every three years.

3d. The Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 3a. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).';

(e) paragraph 5 is deleted;

(8) Article 17 is deleted;

(9) Article 19 is replaced by the following:

'1. The Commission shall adopt implementing acts necessary for adapting the identification system referred to in Article 8(2) and Article 10, second paragraph, sixth indent, to scientific and technical progress. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 21a to amend the illustrative examples for the definition of packaging listed in Annex I.');

(10) Article 20 is replaced by the following:

'Article 20

Specific measures

The Commission shall be empowered to adopt delegated acts in accordance with Article 21a necessary to deal with any difficulties encountered in applying the provisions of this Directive, in particular, to inert packaging materials placed on the market in very small quantities (i.e. approximately 0.1 % by weight) in the Union, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging.');

(11) Article 21 is replaced by the following:

'Article 21

Committee procedure

1. For the purposes of Articles 12(3d) and 19(1), the Commission shall be assisted by the Committee, established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council(*).

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).';

(12) the following Article 21a is inserted:

'Article 21a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
 2. The power to adopt delegated acts referred to in Article 6a(2), Article 11(3), Article 19(2) and Article 20 shall be conferred on the Commission for an indeterminate period of time from [*enter date of entry into force of this Directive*].
 3. The delegation of power referred to in Article 6a(2), Article 11(3), Article 19(2) and Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
 5. A delegated act adopted pursuant to Article 6a(2), Article 11(3), Article 19(2) and Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'
- (13) Annex III to Directive 94/62/EC on packaging and packaging waste is amended as set out in the Annex to this Directive.
- (14) Annex IV is added to Directive 94/62/EC on packaging and packaging waste as set out in the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert date eighteen months after the entry into force of this Directive*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

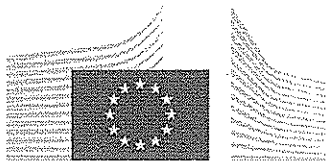
Done at Brussels,

For the European Parliament

The President

For the Council

The President



EUROPEAN
COMMISSION

Brussels, 2.12.2015
COM(2015) 596 final

ANNEX 1

ANNEX

to the

proposal for a Directive of the European Parliament and of the Council

amending Directive 94/62/EC on packaging and packaging waste

{SWD(2015) 259 final}

{SWD(2015) 260 final}

ANNEX

ANNEX III is amended as follows:

- (1) In Tables 1 and 2, rows titled "Metal" are replaced by two rows titled "Ferrous metal" and "Aluminium";
- (2) In Tables 3 and 4, rows titled "Metal packaging" are replaced by two rows titled "Ferrous metal packaging" and "Aluminium packaging".

The following Annex IV is added:

'ANNEX IV

Calculation method for preparing for re-use of products and components for the purpose of Article 6(1)(f) to (i)

In order to calculate the adjusted rate of recycling and preparation for re-use in accordance with Article 6(1)(f) to (i), Member States shall use the following formula:

$$E = \frac{(A+R) * 100}{(P+R)}$$

E: adjusted recycling and re-use rate in a given year;

A: weight of packaging waste recycled or prepared for re-use in a given year;

R: weight of products and components prepared for re-use in a given year;

P: weight of packaging waste generated in a given year.'