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Subject:	<ul style="list-style-type: none">• 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• Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/31/EC on the landfill of waste• Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste• Proposal for a Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste <p>= Presidency non-paper</p>

With a view to the Working Party on the Environment on 23 May 2016, delegations will find in the Annex a Presidency non-paper on the subject in caption for discussion.

Waste Package
Presidency non-paper

Definitions

14975/15: art 1 (2) and (13) (WFD art 3; 22)

Municipal waste – WFD Article 3(1a)

The WPE on April 12th discussed the option to define municipal waste on the basis of the waste codes in the List of Waste adopted by Commission Decision 2014/955/EU. While a significant number of delegations supported this option, the majority preferred to work on the basis of the OECD/ESTAT definition and some indicated that a combination of the two approaches is possible.

Delegations in favour of using the waste codes argued that this would lead to improved comparability and uniformity of reported data and clarity on the waste streams included. On the other hand, concerns were raised about the complexity of such approach as some codes from chapter 20 would need to be excluded, as well as waste fractions from packaging under chapter 15 01 (e.g. certain transport packaging waste), while some codes from chapter 19 need to be considered, for instance what output of MBT facilities subsequently sent to final treatment is concerned. Further complication comes from waste materials appearing in various chapters (such as metals). For some countries using the waste codes would imply a major change in their reporting systems. Some doubted if using the waste codes would lead to greater harmonisation as Member States might not use the codes in the same way, or if they would provide a full coverage. The possibility to amend the List of Waste via a delegated act was also seen as problematic by Member States, although this could be overcome by including the relevant codes in an annex to the directive.

A key question related to the discussion on the two options is how broad the municipal waste stream should be. The waste codes approach imply a broader application, as chapter 20 refers to household waste and similar commercial, industrial and institutional waste, and chapter 15 01 includes primary, secondary and tertiary packaging. The discussion on using the waste codes is linked to including the notion of "quantity" in defining waste that is comparable to household waste, on which the Member States are also divided. Some support including a quantity criterion as they consider that industrial waste should be excluded from the scope of municipal waste together with large quantities of waste from commercial activities. While for industrial activities a distinction could be more clearly made, for commercial waste this might be more difficult – for instance regarding packaging waste a clear distinction between commercial and private household origin might not be possible because of the collection system. The majority of the delegations argue that only nature and composition should be used to establish if waste is comparable to household waste. The arguments for deleting the quantity criterion include concerns that limiting the quantity of collected waste might undermine the cost-effectiveness of the collection system where household and comparable waste is collected together or it may be difficult to operationalise this criterion (for instance, it might not be clear what quantities the comparison should take into account – of a single household, multi-apartment buildings, or total waste).

Taking into account these considerations, the Presidency proposes to work on the basis of the definition proposed by the Commission, while addressing the concerns of delegations about including large quantities of non-household waste by adding some elements clarifying the sources of waste in line with the OECD/Eurostat definition and Commission Decision 2011/753.¹ In particular, it is proposed to include the sources of waste comparable to household waste listed in the OECD/Eurostat definition and exclude waste from production, agriculture and forestry, as done in Decision 2011/753.

Finally, the request by a number of delegations for simplifying the definition has been addressed by deleting some examples, as well as the reference to while goods which are part of waste electrical and electronic equipment.

Therefore the Presidency suggests the following changes to the proposed definition:

'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, **and** furniture; **and garden waste** ~~including leaves, grass clipping~~;
- (b) mixed waste and separately collected waste from ~~other sources~~ **commerce and trade, small businesses, office buildings and institutions including schools, hospitals, and government buildings**, that is comparable to household waste in nature **and**, composition ~~and quantity~~.
- (c) ~~market cleansing waste and~~ waste from street cleaning services, ~~including street sweepings, the content of litter containers, waste from~~ **and** park and garden maintenance.

Municipal waste does not include waste from **production, agriculture, forestry, septic tanks and** sewage network and treatment, including sewage sludge, **end-of-life vehicles** and construction and demolition waste.;

Bio-waste – WFD Article 3(4) and Separate collection of bio-waste – WFD Article 22

A large majority of the delegations indicated that they prefer deletion of the last part ('*and other waste with similar biodegradability properties that is comparable in nature, composition and quantity*') of the proposed definition in the Commission's proposal. Some delegations raised further questions on the relation with biodegradable plastics and suggested to address this under Article 22 of the WFD.

¹ For an overview of definitions, see <http://ec.europa.eu/eurostat/documents/342366/351811/Municipal-waste-statistics-guidance.pdf>

Based on the suggestions of several of the delegations, 'wholesale' is included to make the definition more exhaustive, and 'non-hazardous' has been included as a basic condition. The proposed definition would then come to read:

*"bio-waste" means **non-hazardous** biodegradable garden and park waste, food and kitchen waste from households, restaurants, **wholesale**, 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~~;*

In the discussion on the definition of bio-waste delegations raised questions on biodegradable plastics, their collection and their biodegradability, for instance regarding the production of compost, also in relation to Article 22 WFD.

Therefore the Presidency suggests to include in the text the possibility to collect biodegradables (e.g. compostable plastic waste bags to collect bio-waste separately) together with bio-waste. In order to clarify the similar biodegradable properties and guarantee the quality there could be a reference to existing standards in a Commissions guidance document.

Furthermore delegations have stipulated that Article 22 WFD should be more technology neutral. Several delegations have mentioned in their comments that the Commissions' proposal suggests that the only processing technique is composting and that it is too prescriptive. They pointed at the need for technological neutrality of the article in order to leave room for innovation and technology development. In this regard, the Presidency proposes to focus not only on the production of compost but to give room for other uses/processing techniques and to focus on recycling as such, avoiding a list with examples that could work limitative in the future.

Article 22 would then come to read:

*'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 **or other treatment into products** and to attain the targets set out in Article 11(2)(a), (c) and (d) and 11(3).*

Waste with similar biodegradability properties may be collected together with bio-waste.

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.';*

Backfilling – WFD Article 3(17b)

In the WPE of April 12th, the delegations largely supported the Presidencies proposal to restrict the definition to non-hazardous waste and to delete the last part of the definition which overlaps with the definition of recovery. Delegations also broadly supported the inclusion of an additional R-code for backfilling.

Based on the discussion on April 12th and delegations' written comments, the following points need to be addressed:

(1) the notion of suitable waste; (2) the notion of quantity; and (3) whether "construction" should be introduced in the definition. A number of delegations also asked to clarify the distinction between recycling and backfilling and other material recovery, in particular concerning the notion of "construction purposes".

To address these various issues, the Presidency suggests the following combined approach:

First, since the term backfilling is referred to in the WFD only in relation to the target set in Article 11(2)(b), it is proposed to clarify the notion of backfilling in Article 11(2)(b) and not through a separate definition. Delegations are asked if this is sufficient or that backfilling as a definition is used in a broader way, also for other waste than C&D waste. Possibly a definition is not needed if the explanation of backfilling is given together with the R-code.

Second, with respect to the specific aspects the following suggestions are made:

(1) As the Commission explained in the previous meetings, Eurostat has provided guidance² on the notion of suitable waste as waste that is "appropriate for the purpose and without causing environmental harm."

(2) An alternative wording is proposed to address the quantity notion.

(3) Almost an equal number of delegations supported the deletion or maintaining the reference to construction purposes. As clarified in the Eurostat guidance, landscaping engineering also covers construction; therefore it is proposed to maintain the definition as already included in Decision 2011/753/EC (Article 1(6)).

(4) Also, some delegations raised concern that the insertion of "construction purposes" would run against the objective of Article 11 to promote high quality recycling and that recycling of C&D waste would have to be regarded as backfilling. A recital is therefore proposed to clarify that recycling of C&D waste into secondary materials that meet appropriate technical standards, norms and specifications for their use in infrastructure construction is not to be considered to be backfilling.

(5) With regard to the proposed deletion in Article 11(2)(b) of the reference to "other material recovery", the Commission explained in earlier meetings, that this was done on the basis of an understanding that there are no "other material recovery" of C&D waste apart from recycling and backfilling. As demonstrated by the Danish delegation, there are forms of other material recovery. Therefore, the Presidency proposes not to amend Article 11(2)(b) as proposed by the Commission.

² <http://ec.europa.eu/eurostat/documents/342366/4953052/Guidance-on-Backfilling.pdf/c18d330c-97f2-4f8c-badd-ba446491b47e>

The above considerations lead the Presidency to make the following proposal:

Article 11(2)(b)

*(b) by 2020, the preparing for re-use, recycling **and other material recovery, including backfilling operations using waste to substitute other materials**, 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.*

Backfilling means a recovery operation where waste is used for the purposes of reclamation in excavated areas or for engineering purposes in landscaping. The waste used for backfilling should substitute non-waste materials, be suitable for the afore-mentioned purposes and be limited to the amount strictly necessary to achieve these purposes;

An additional R-code for “backfilling” in Annex II of the WFD

Recital: Reprocessing of construction and demolition waste into secondary raw materials that meet relevant standards, norms and specifications for use in engineering purposes in construction does not constitute a backfilling activity.

Some comments on the differentiation of disposal, recovery, recycling, backfilling and other material recovery operations

The key considerations whether the use of C&D waste constitutes backfilling are – waste is:

- used instead of other virgin materials;
- suitable for the application (complying with the necessary properties for the particular performance), and
- applied for the purposes of reclamation in excavated areas or engineering in landscaping.

Disposal vs recovery - according to the Landfill Directive (recital 15, Article 3(1)(2)) – the recovery of suitable inert non-hazardous waste through its use in redevelopment/restoration, filling-in work or for construction purposes is not landfilling.

Recycling vs recovery – according to the definition of recycling and as further clarified in the Eurostat guidance on backfilling, a recycling activity requires that waste is reprocessed – i.e. its physico-chemical properties are altered. A recovery activity that involves unprocessed C&D waste cannot be considered as recycling.

Other material recovery – other recovery activities, excluding energy recovery. It includes backfilling, but also contains other activities (e.g. use of waste gypsum from buildings on agriculture land in order to increase the PH value). No specific definition is needed because this can be deduced from the definitions of backfilling, recycling and recovery.

I. Summary of the changes proposed

1. Rules on calculating recycling

Overall approach:

- Allowing for two options in terms of point of measurement: input to final recycling and output of sorting operations under certain conditions;
- Developing more precise rules on "non-significant losses".

Recycling:

- Deleting the definition of "final recycling process" in art.3 and clarifying the point of measurement in art.11a;
- Including provisions clarifying that aerobic and anaerobic treatment of biodegradable waste can be counted towards the recycling targets under certain conditions as in art. 2(6) of decision 2011/753 and considering broadening these conditions to reflect new innovative applications.
- Output of sorting:
- Keeping the maximum 10% loss threshold for all waste streams and introducing the obligation to deduct all losses in case this threshold is not met;
- Clarifying that the output of sorting does not need to enter *directly* final recycling, but it has to be ensured that it is eventually recycled, for instance following further sorting operations or shipment.

Other provisions:

- Moving the provisions on counting end-of-waste towards the targets from article 6 to article 11a and asking the Commission to clarify the need for such provisions.

2. Rules on calculating preparation for reuse (waste)

The overall approach is:

- Keeping the current definition of preparation for re-use, which refers only to waste;
- Keeping the current approach to have a combined target for preparation for reuse and recycling of *waste* in the Waste Framework Directive and asking the Commission to clarify how such a combined target would work in the PPWD.

3. Rules for taking into account reuse (non-waste)

- Limiting the scope of products, components and packaging that can be taken into account for the calculation of the targets.
- Introducing a cap on the amount of products, components and packaging for re-use that could be taken into account for the calculation of the municipal and packaging waste targets;
- Clarifying what calculation rules would apply and what mechanisms need to be put in place to ensure reliable reporting from the operators.

II. Rules on calculating recycling

1. Recycling

1.1 Final recycling process

WFD

(2) Article 3 is amended as follows:

(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;~~

'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 **which, having undergone all preliminary sorting operations, entering the final recycling process the operation where waste materials are actually reprocessed into products, materials or substances;**

PPWD

'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 **which, having undergone all preliminary sorting operations, entering the final recycling process the operation where waste materials are actually reprocessed into products, materials or substances;**

Rationale for the proposed changes

WFD: Art. 3 (17a) – definition of “final recycling process”: Following the explanation of the Commission that this definition has been introduced for the purposes of calculating the recycling rate pursuant to art. 11a, a number of delegations requested to clarify the point of measurement in art. 11a. No objections to such approach were raised.

WFD: Art. 11a (1) (a); PPWD: Art. 6a, par. 1(a). While it has been considered appropriate to address the point of measurement in art. 11a, a number of delegations raised concerns about the interpretation of some elements of the definition proposed by the Commission, in particular concerning “mechanical sorting” (as there are also other types of sorting prior to recycling); “production process” (as not all waste materials need to enter production to be considered as recycled); and “effectively reprocessed” (as this may be understood as referring to the efficiency of the process). Delegations also pointed out that in some cases, such as aerobic treatment of biowaste, there could be sorting operations after the final recycling process has started (while the initial Commission proposal precludes this). The proposal for amendment tries to address all the above concerns.

In addition to the proposed changes in Art. 11a (1) (a), the following clarification can be included in **recital 17**:

"(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. **This process starts after the sorting operations to remove materials that are not targeted by the subsequent reprocessing are completed. [Examples: Such sorting operations include checking separately collected waste for the presence of non-target materials, sorting different kinds or colours of waste materials, separating waste fractions from mixed waste in a mechanical biological treatment facility, etc.]** 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 **any sorting operation, including of sorting facilities. Significant loss of materials between this output and the waste amounts entering the actual recycling operation, for instance due to further sorting at the recycling facility, should not be included in the waste amounts reported as recycled.** On the other hand, losses in weight of materials or substances due to physical and/or chemical transformation processes inherent to the **operation where waste materials are actually reprocessed into products, materials and substances** should not be deducted from the weight of the waste reported as recycled."

1.2. Other

Article 11a

4b. For the purpose of calculating the targets laid down in Article 11 (2) (c) and (d) and Article 11 (3), the input to biological treatment may be counted as recycled where that treatment generates compost or digestate [or other material] which, following any further necessary reprocessing, is used as a recycled product, material or substance for land treatment resulting in benefit to agriculture or ecological improvement, or for animal feed [and...].

Art. 11, point 4b: specific provisions on bio-waste: A number of delegations requested the inclusion of in article 2, par. 6 of Commission decision 2011/753/EU. One delegation requested some adjustments to take into account other biological treatment methods of waste than anaerobic digestion and composting, such as the production of advanced biofuels from waste (e.g. separately collected biowaste, fat waste) where process residues are also utilized as soil improver or animal feed. Delegations are invited to consider whether the conditions for counting bio-waste as recycled could potentially be broadened to take into account specific innovative applications, such as producing paper from digestate, while at the same time ensuring clear environmental benefits.

2. Output of sorting

WFD

Article 11a

3. By way of derogation from paragraph 1(a), 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~~ **is subject to an final recycling process operation where waste materials are actually reprocessed into products, materials or substances;**

(b) the weight of materials or substances that **are removed by further sorting operations preceding the actual reprocessing of waste materials into products, materials or substances and that** are not **subsequently recycled** ~~subject to a final recycling process and that are disposed or subject to energy recovery~~ remains below 10% of the ~~total weight of waste to be reported as~~ **total weight of waste** recycled. **Where the weight of such materials or substances is above 10%, it shall be deducted from the weight of the output of the sorting operation before it may be reported as the weight of the municipal waste recycled.**

PPWD

Article 6a

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

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~~ **is subject to an final recycling process operation where waste materials are actually reprocessed into products, materials or substances;**

(b) the weight of materials or substances that **are removed by further sorting operations preceding the actual reprocessing of waste materials into products, materials or substances and that** are not **subsequently recycled** ~~subject to a final recycling process and that are disposed or subject to energy recovery~~ remains below 10% of the ~~total weight of waste to be reported as~~ **total weight of waste** recycled. **Where the weight of such materials or substances is above 10%, it shall be deducted from the weight of the output of the sorting operation before it may be reported as the weight of the packaging waste recycled.**

Rationale for the proposed changes

WFD: Art. 11a, point 3, PPWD: Art. 6a, point 3 – alternative point of measuring and reporting recycled waste amounts: The Commission has clarified that this is a second option for reporting recycling and it is presented as derogation as some conditions need to be met in order to make use of it. The output of a sorting operation may be considered provided that it is ensured that the output waste will be subsequently recycled, possibly after further sorting operations or shipment.

Some delegations interpreted the proposal as meaning that the reported amounts of sorted waste had to be sent *directly* to a final recycling process, but the Commission clarified that this was not the intention of the provisions, the aim was to ensure that sorted materials are actually recycled and not diverted to landfill or incineration.

It appeared that the reference to "the *total* weight to be reported as recycled" led to different interpretations, in particular if the 10% rule should be applied per waste stream or as average for all waste. The Commission clarified that the intention is to cover individual streams and facilities or track all waste as some countries currently do.

It was also commented that the reference to "materials and substances that are not subject to a final recycling process and that are disposed or subject to energy recovery" in relation to the 10% threshold could create a loophole as there could be other recovery operations.

Changes are proposed to make the text reflect these points.

At the expert meeting on 13/04/2016 the Commission presented data on losses between collection, sorting and recycling, which showed that there are significant losses between collection and sorting, which would support the exclusion of reporting what is collected. After the sorting where most of the non-target materials are removed, subsequent losses become much lower. The 10% maximum threshold might be relevant for plastics, but could be much lower (below 5%) for other waste streams.

Concerning the 10% loss of materials threshold, some delegations considered it to be too high, few – too low, while others thought that all losses should be deducted in order to ensure a level playing field and comparable data.

Taking into account these considerations, the Presidency suggests keeping the 10% threshold, while – with a view to promoting quality sorting – providing for the deduction of all losses in case the share of non-target materials in output of sorting which are not eventually recycled exceeds 10%.

3 Other provisions

3.1. Traceability

WFD

Article 11a

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 **1(a)**, 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.

PPWD

Article 6a

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

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 **1(a)**, 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.

Rationale for the proposed changes

WFD: Art. 11a, point 3, PPWD: Art. 6a, point 3: Ensuring traceability: Delegations considered that establishing an effective system of quality control and traceability should apply to both reporting options in order to ensure that the input to the operation where waste materials are actually reprocessed into products, materials or substances is also measured correctly.

3.2. End-of-waste

Art. 6, par. 3 – possibility to count end of waste materials, substances and products towards the targets: The Commission is invited to explain if there is need for such provisions in the light of the alignment of the definitions on recycling and the risk of double counting.

Following explanation by the Commission delegations are invited to reflect if such provisions are necessary.

If such provisions are deemed necessary, it was agreed that they should be part of art. 11a. Some delegations asked to clarify that end-of-waste used for fuel or for backfilling operations is excluded. To make this clearer, it is suggested to change the text slightly:

"Waste which is ~~considered to have~~ **has** ceased to be waste in accordance with ~~paragraph 1~~ **Article 6(1)** may be considered ~~to be prepared for reuse, recycled or recovered~~ for the purpose of the calculation of the achievement of the **preparation for reuse, recycling or recovery** 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 **respectively** a preparing for reuse, recycling or recovery in accordance with those Directives."

It could be clarified in a recital that **"In order to include substances, materials or products that have ceased to be waste in the calculation of the recycling rate, they have to comply with the definition of recycling, in particular with regards to the exclusion of reprocessing waste materials into materials that are to be used as fuels or for backfilling operations, as well with the rules on counting bio-waste towards the targets set in Article 11a (4b) of this directive. The same approach applies to considering waste materials that have ceased to be waste for the purposes of reporting on backfilling and recovery."**

3.3. Incineration

WFD

Article 11a

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~~ **recovered after waste** incineration in proportion to the share of the municipal waste incinerated provided that the recycled metals meet certain quality requirements.

PPWD

Article 6a

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

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~~ **recovered after waste** 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.

Rationale for the proposed changes

Art. 11a, point 5- consideration of metals recovered from incineration: The formulation "recycling of metals that takes place in conjunction with incineration" was not clear to some delegations. Alternative wording is therefore proposed.

The Commission clarified that this proposal was actually linked to the property of metals to be infinitely recycled and subject to defining quality criteria through a delegated act. The intention was not to include substances resulting from the incineration process as such.

III. Rules on calculating preparation for reuse (waste)

1. Definition of preparation for re-use

WFD

(2) Article 3 is amended as follows:

(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;'~~

Article 11a

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

WFD: Art. 3, point 16 – definition of “preparing for re-use”: The majority of delegations supported keeping the current definition of preparation for re-use, which refers only to waste. This would entail deleting the new definition proposed by the Commission. The possibility to count re-use of products and component towards the targets would be then addressed in article 11a (see below).

WFD Art. 11a, par. 1, point b – preparation for reuse of waste: Some delegations pointed that what concerns preparation for reuse of waste, it is not needed to have a reference to recognised preparation for reuse operators and deposit-refund schemes as such operators would fall under the waste regime. It is suggested to delete this reference. With the proposed changes it becomes also clearer that the amounts to be reported are those which are prepared for reuse, and not those which are collected.

2. Preparation for reuse of waste in the PPWD

Art. 6a (1) (b): Including preparation for reuse of packaging waste in the calculation of the targets: Currently PPWD does not include such provisions. The Commission is invited to clarify if there are operations that could qualify as preparation for reuse of packaging *waste*.

IV. Rules for taking into account reuse (non-waste)

WFD

Article 11a

(c) Member States may include products and components ~~prepared for re-use~~ **such as electric and electronic equipment, furniture and clothes, and sales packaging as defined in Article 3 (1) (a) of Directive 94/62/EC that have been collected by registered preparation for re-use operators or deposit-refund schemes, and are re-used without further sorting or pre-processing.** ~~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,~~ **The weight of such products and components for re-use that may be taken into account for the calculation of the adjusted re-use and recycling rate of municipal waste shall not exceed [X]% of the municipal waste generated and shall be reported separately. For the calculation of this adjusted rate** Member States shall use verified data from **the registered re-use** 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~~ **criteria for the purposes of including re-use of products and components pursuant to paragraph 1(c) the determination of preparation for re-use operators and deposit-refund schemes in the calculation of the targets,** including specific rules on data **eligibility**, collection, verification and reporting **by registered preparation for re-use operators or deposit-refund schemes.**

*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,

(c) Member States may include ~~products and components~~ **sales packaging as defined in art. 3 (1)(a) prepared for re-use that has been collected by recognised registered preparation for re-use operators or deposit-refund schemes, and is re-used without further sorting or pre-processing.** ~~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~~ **The weight of such sales packaging for re-use that may be taken into account for the calculation of the adjusted re-use and recycling rate of packaging waste shall not exceed [X]% of the packaging waste generated and shall be reported separately. For the calculation of this adjusted rate** Member States shall use verified data from the **registered re-use** 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 **criteria for the purposes of including re-use of packaging pursuant to paragraph (1)(c)** ~~minimum quality and operational requirements for the determination of recognised preparation for re-use operators and deposit-refund schemes in the calculation of the targets,~~ including specific rules on data **eligibility**, collection, verification and reporting **by registered re-use operators or deposit-refund schemes.**

WFD: Art. 11a, par. 1, point c and par.2, PPWD: Art. 6a, par. 1 (c) and par. 2 – preparation for reuse of non-waste: At the expert group on 13/04/2016 the Commission and some delegations presented further analysis on the impacts of including reuse in the recycling targets. It was demonstrated that while for municipal waste the impact would be limited, for packaging waste, the impact would be bigger and would lead to less effort to achieve the proposed total packaging recycling rate, as well as the targets for plastic, metals and, probably, wood. It would make the achievement of the targets somewhat easier for glass and not much easier for paper and card.

Following this exchange, a possible compromise could be to include reuse of products and components in the recycling targets under certain conditions. It is suggested to limit the scope of products, components and packaging for re-use that can be taken into account for the calculation of the targets to items such as electric and electronic equipment, furniture and clothes collected by registered re-use operators and to sales packaging as defined in art. 3 (1) (a) of PPWD. Furthermore, a cap on the share of re-use that could be taken into account for the calculation of the municipal and packaging waste targets could be considered, while ensuring separate reporting on such re-use amounts.

In case there is broad agreement on such an approach, further analysis and discussion would be needed on the share of reuse that should be allowed for the calculation of the targets, as well as on the calculation formula in the annexes, in particular whether the trips of reusable packaging should be taken into account or not.

In addition, the deletion of the new "preparation for re-use" definition necessitates changes in a number of provisions where "preparation for re-use" is used in the proposal as referring to both waste and non-waste activities. Changes are also proposed to address concerns raised regarding the Commission's proposal to establish minimum quality and operational requirements for preparation for reuse operators. It was also not clear what was meant by recognition of such operators. The Commission clarified that the objective was to set such requirements for the purposes of data reporting and verification. A delegation made a proposal to refer to operators which are well-established and registered. While a reference to "established" would be too broad, it would be a possible compromise to refer to "registered" operators. Furthermore, it is clarified that the delegated act is for the purposes collection and reporting of relevant data, and not for regulating the operational activities of re-use centres.
