



Calendar – listing meetings of policymakers having impact on the CEP

31 August	Technical trilogues
26 September	Third trilogue discussions
26 September	Stakeholder conference on Plastics Strategy
13 October	ENVI Council (Luxembourg)
24-26 October	High-level conference ‘Nature-based solutions: from innovation to common use’ (Tallinn)
19 December	Environment Council (Brussels)

Key topics	Position of the Council	Position of the European Parliament	Trilogue: Changes since 16 May 2017
(As of 26 July 2017)			
Municipal waste definition	<ul style="list-style-type: none"> • Recital 6: <ul style="list-style-type: none"> ▪ reference to the waste list codes ▪ exclude waste from large commerce and industry ▪ neutrality of definition “<i>with regard to the public or private status of the operator</i>” • Article 3: <ul style="list-style-type: none"> ▪ Quantity criterion deleted ▪ exclude waste from large commerce and industry ▪ No mentioning of neutrality <p>Current wording on Article 3(1b): mixed waste and separately collected waste from other sources [...] to the extent to which such waste is similar in nature and composition to household waste</p>	<ul style="list-style-type: none"> • Recital 6: <ul style="list-style-type: none"> ▪ Neutrality mentioned “<i>with regard to the public or private status of the operator</i>” • Article 3 <ul style="list-style-type: none"> ▪ Quantity criterion deleted ▪ Neutrality mentioned “<i>regardless of the public or private status of the operator managing waste</i>” <p>Current wording on Article 3(1b): mixed waste and separately collected waste from <i>small businesses, office buildings and institutions including</i></p>	<p>Quantity criteria is now excluded as an option completely.</p> <p>Aim is to narrow the scope of definition as much as possible and include reference to neutrality. Neutrality principle is highly valued by Member States who have limited responsibilities for municipalities who are managing waste.</p>



		<i>schools, hospitals, and government buildings</i> that is <i>similar</i> to household waste in nature <i>and</i> composition.	
Industrial & commercial waste definition	<ul style="list-style-type: none"> Stated that the EP proposal is not acceptable <p>This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors.</p>	<ul style="list-style-type: none"> Proposes definitions on industrial & commercial waste <ul style="list-style-type: none"> Defined as mixed waste and separately collected waste from commercial and industrial activities and/or premises. Excludes municipal waste, construction and demolition waste or waste from sewage network or treatment, including sewage sludge; 	
Final recycling process definition	<ul style="list-style-type: none"> Deletes the definition of final recycling from the Commission’s proposal Not supportive of the EPs position on final recycling 	<ul style="list-style-type: none"> Deletes <i>mechanical</i> and <i>production process</i> from the Commission’s proposal 	Still excluded from Council text
Definition of: - sorting, - dilution, - EPR Scheme, - decontamination, - residual waste (very brief)	<ul style="list-style-type: none"> Recital 6: <ul style="list-style-type: none"> Definition of EPR schemes should be introduced <p>Deletes definition of sorting, dilution, decontamination and residual waste.</p>	<ul style="list-style-type: none"> Article 3 – point 20b: <ul style="list-style-type: none"> “sorting” means any waste management operation which separates collected waste into different fractions and subfractions Article 3 – point 17c: <ul style="list-style-type: none"> “dilution” means the mixing of waste with one or more either materials of wastes Recital 8e 	<p><i>"20b. "sorting" means any waste management operation which separates collected waste into different fractions and sub-fractions;"</i></p> <p>This is another difficult point for both the Council and EP, and so far only a read through of positions has taken place.</p>



		<ul style="list-style-type: none"> ▪ EPR “is an individual obligation on producers who should be accountable for end-of-life management of products that they place on the market”. • Article 3 – point 20a: <ul style="list-style-type: none"> ▪ Decontamination “means any operation that consists of removing or treating the unwanted hazardous components or pollutants from waste in order to destroy them”. • Article 3 – point 20c: <ul style="list-style-type: none"> ▪ Residual waste is “waste resulting from a treatment or a recovery operation” 	
<p>Calculation method for recycling targets (output, input)</p>	<p>Keeping input into recycling as the main method (while deleting the work “final”). By derogation output of sorting is kept as well. Deletion of output of sorting unacceptable. Working with loss rates.</p> <p>Co-incineration might be counted towards targets in certain cases fulfilling certain conditions.</p> <p>Under Recital 17a, Council believes Member States should be allowed by way of derogation to report recycling rates on the basis of the output of any sorting operation.</p>	<p>- Deleted the output method</p> <p>Calculation of recycled waste should be based on one harmonised method which prevents Member States from reporting discarded waste as recycled waste. Reporting on attainment of recycling targets must be based on input to the final recycling process.</p>	<p>This discussion has not really started on Article 11a. The more detailed discussions will take place after summer.</p> <p>The EP will ask the Council to clarify its position:</p> <ul style="list-style-type: none"> • It is expected that the Parliament will opt for EU wide criteria rather than national criteria • The Commission will have to come up with an implementing act



	Any loss of materials occurring before waste enters recycling operation should not be included in waste amounts		<p>on how to establish/justify <i>loss rates</i></p> <ul style="list-style-type: none"> This would then later involve the Technical Adaptation Committee (TAC)
<p>Calculation method with regard to the exports of secondary raw materials from recycling to third countries</p>	<ul style="list-style-type: none"> Article 11a – paragraph 8: <ul style="list-style-type: none"> “Waste exported from the Union for preparation for re-use or recycling shall only count towards the attainment of targets laid down in Articles 11(2) and (3) of the WFD if the exporter can prove that the treatment of waste took place in broadly equivalent conditions to the EU ones.” <p>The Council added the word “broadly” which alleviates the possible burden for export of secondary raw materials (usually considered to be waste).</p> <p>Average loss rates should be used in the case of export of waste where there is no other reliable data available to calculate the rate.</p>	<p>The European Parliament has not amended the Article 11a (8) keeping the burden on companies to prove “equivalent conditions”.</p>	<p>This issue has not been discussed so far. The Council maintains its position.</p>
<p>Waste hierarchy / e.g. requirement for separate collection before incineration</p>	<p>Art 3 (1) The Council deleted the definition of “separate collection”</p> <p>Art 10 (2a) The Parliaments AM 157 is not acceptable for</p>	<p>AM 157 Art 10 (2a) Separately collected waste shall not be</p>	<p>Council has discussed the reference that “separately collected waste...is not accepted in an incineration plant”</p>



	<p>the Council.</p> <p>Article 11a -paragraph 5 “The recycling of minerals derived from municipal waste as part of co-incineration where that recycling takes place simultaneously with energy recovery “</p> <p>Article 11a - paragraph 6 the Commission shall adopt implementing acts [...] establishing... common methodology for the calculation of the weight of metals and minerals that have been recycled in accordance with paragraphs 5...</p>	<p>accepted in an incineration plant</p> <p>AM 181 Article 11a -paragraph 5 Metals from bottom ash (incineration) can be counted towards the recycling targets only if the waste has been sorted prior to incineration or the obligation to set up separate collection has been complied with</p> <p>AM 191 Art. 20 (1a) separate collection and reception systems for hazardous waste</p>	<p>Article 11a -paragraph 5 “The recycling of metals [...] separated after incineration of municipal waste provided that the recycled metals meet certain quality requirements; and “</p> <p>The Council does not mention the recycling of “minerals” in its mandate.</p>
<p>Pull measures (economic instruments supporting the demand for secondary raw materials)</p>	<p>Article 4 (3) “economic instruments and other measures”</p> <p>Amendment 162 is for Council not acceptable</p>	<p>Article 4 (3)</p> <ul style="list-style-type: none"> - reference to a list of economic instruments in a new Annex Iva - among other things... “to maximise the uptake of secondary raw materials and to offset the cost disparities with virgin raw materials.” <p>Amendment 234 Annex IV a (new)</p> <p>Amendment 162 Article 11 - paragraph 1 - subparagraph 2a (new) Member States shall make use of</p>	



		regulatory and economic instruments in order to incentivise the uptake of secondary raw materials.	
<p>End-of-waste criteria</p>	<p>Article 6 - paragraph 2 The Commission shall monitor the development of national criteria in Member States, and assess the need to develop Union wide criteria on this basis. To this end and where appropriate, the Commission shall adopt implementing acts [...] in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1 to certain types of waste. Those detailed criteria shall [...] take into account any possible adverse environmental and human health impacts [...] of the substance or object and shall include: a) permissible waste input material for the recovery operation; b) allowed treatment processes and techniques; c) quality criteria for end-of-waste materials resulting from the recovery operation in line with the applicable product standards including limit values for pollutants where necessary; d) requirements for quality management, self-monitoring and</p>	<p>Article 6</p> <ul style="list-style-type: none"> - The European Parliament explicitly included the option for the Member States to adopt national (EoW) criteria to specific waste - If the EoW criteria are neither adopted at European nor at national level, it shall be determined on case-by-case basis whether waste ceased to be waste - The Commission shall establish general requirements for the Member States to ensure coherence in the EU single market when Member States will adopt their national EoW criteria <ul style="list-style-type: none"> • Recital 8b: <ul style="list-style-type: none"> ▪ Commission should be “empowered to adopt delegated acts establishing harmonised provisions related to the end-of-waste status of certain types of waste”. ▪ Unlike the Council, the Parliament identifies certain streams that should be 	<p>The Council is now aiming for a reconciliation between the French ‘ex-ante’ approach and the Dutch ‘ex-post’ approach:</p> <ul style="list-style-type: none"> • French ‘ex-ante’: National end-of-waste criteria are drafted and enacted by competent authorities. Only when they are set and reached can waste be considered end-of-waste • Dutch ‘ex-post’: Generic conditions for end-of-waste. It is up to the operator to check and declare end-of-waste criteria. Checks by authorities take place afterwards. <p>Legal service amended Commission text so that it no longer bears a direct effect on which stakeholders can rely to / go to court.</p> <ul style="list-style-type: none"> • Commission: ‘Member States shall ensure



	<p>1-1 accreditation, where appropriate; e) requirement for a statement of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The results of the assessment carried out by the Commission to determine the need for Union wide criteria or otherwise shall be made public.</p>	<p>considered, including aggregates, paper, glass, metal, tyres and textiles.</p> <ul style="list-style-type: none"> ▪ Where criteria has not been set at Union level, the Parliament believes that Member States should be allowed to establish detailed end-of-waste criteria at national level. 	<p>that...' changes to Council: 'Member States Shall take measures that...'</p>
<p>Minimum requirements for EPR Schemes</p>	<p>Article 8a - paragraph 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: (b) has the necessary operational and/or financial means to meet its extended producer responsibility obligations; (The Parliament's position is not acceptable for the Council)</p> <p>Article 8a - paragraph 4 - subparagraph 1 - point b in case of collective fulfilment of extended producer responsibility obligations, are modulated,[...] where possible, for individual products or groups of similar products [...] by taking into account their re-</p>	<p>Article 8a - paragraph 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: (b) has the necessary operational <u>and/or</u> financial means to meet its extended producer responsibility obligations;</p> <p>Article 8a - paragraph 4 - subparagraph 1 - point b <i>in the framework of collective schemes,</i> 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 durability,</p>	<p>Member States have had quite detailed discussions on EPR focusing in particular on:</p> <ul style="list-style-type: none"> • Mandatory vs. voluntary schemes • Overall the EP does not find it clear exactly what the Council wants and wants more clarification • The EP finds that the wording financial or financial and organisational responsibilities is unclear and creates confusion (Article 8a – par. 1 – subpar. 3) • Optimised cost vs



	<p>usability and reparability as a contribution to waste prevention and preparation for reuse, and their recyclability;</p> <p>Introduces Recital 9A which states “Provisions relating to the financial responsibility of producers introduced as part of the general requirements for extended producer responsibility schemes shall apply without prejudice to the competence of public authorities as regards the collection and treatment of municipal waste.”</p>	<p><i>reparability</i>, re-usability and recyclability <i>and the presence of hazardous substances hereby taking a life-cycle approach and aligned with the requirements set by relevant Union law, and when available, based on harmonised criteria in order to ensure a smooth functioning of the internal market;</i></p> <ul style="list-style-type: none"> • Recital 9: <ul style="list-style-type: none"> ▪ EPR schemes should have minimum operating requirements, either individually or collectively – but a distinction should be made between the two. ▪ Requirements should aim to reduce costs and boost performance by measures such as “facilitating better implementation of separate collection and sorting” and “helping secure access to secondary raw materials” 	<p>necessary cost (Article 8a – par. 4 – subpar. 1 - point c). The EP still prefers optimised but it seems they can accept the wording necessary. The EC says that a new recital would then need to be added.</p> <ul style="list-style-type: none"> • Shared costs where producer bear “at least half of the related costs” (Article 8a – par. 4 – subpar. 1 - point d) • The 50/50 sharing of costs suggested by the Council is only partially acceptable for the EP. It was introduced to take in particular France into consideration. Idea is to keep this point for the end of the discussions • Open/closed lists of costs: The EP will push to have a closed list, but expects that in the end we will have an open list.
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<p>Quality standards for secondary raw materials / Standards affecting recyclers</p>	<p>Quality standards mentioned as possible criteria for end-of-waste [Art. 6 (2)]</p>	<p>AM 177 – Article 11a (1a) ... European standardisation organisations to develop European quality standards for waste materials entering the final recycling process and for secondary raw materials...</p> <p>Commission shall adopt delegated acts in establishing minimum quality and operational requirements for ...final recycling operators</p> <ul style="list-style-type: none"> • Recital 16a: <ul style="list-style-type: none"> ▪ The Parliament notes that “in order to ensure the uptake of high quality secondary raw materials, the output of the final recycling process should uphold quality standards”. 	
<p>Miscellaneous</p>			<p>Understanding between Council and EP on some specific points concerning end-of-waste criteria, food waste and by-products of waste.</p>