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DG Environment
Directorate G Sustainable Development and Integration
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Date: 3 November 2008
Subject: Landfill Directive

Dear Mrs. Fras,

We like to draw your attention to the following problem that has arisen due to implementation of the Landfill Directive.

Article 6 of Council Directive 1999/31/EC (Landfill Directive) states that "Member States shall take measures in order that:

- (a) only waste that has been subject to treatment is landfilled. This provision may not apply to inert waste for which treatment is not technically feasible, nor to any other waste for which treatment does not contribute to the objectives of this Directive ...".

Only treated waste allowed

Inert Construction- & Demolition Waste (C&DW) is generated at demolition sites where selective demolition and separation at source is applied. This pre-sorting might be viewed as treatment prior to following waste handling steps. If source separation is not applied, mixed C&DW might be sorted afterwards with the aim of producing inert waste fit for landfilling at an inert landfill. These practices and the allowance at inert landfills are fully incomprehensible to us. If companies take effort to produce truly inert C&DW, how can anyone agree to allow this material at a landfill. Cleaner and more easily recyclable waste can not be found.

For inert landfills, the provision actually is a big mistake. If treatment of waste takes place, it will generally become fit for recycling. The definition of "treatment" in the Landfill Directive even suggests so (art.2 (h) "treatment means facilitate its handling or enhance recovery"). Why then bring it to a landfill? Taking account of the Waste Framework Directive (article 3 on Waste Hierarchy) one must conclude that such an act is actually illegal. If treatment of C&DW is not considered feasible, this means that sorting can not take place. The waste is therefore still mixed waste, not inert. Therefore landfilling at an inert landfill can not be allowed.

From the above it must be concluded that an inert landfill is an impossible concept for C&DW. Either it is inert and should be recycled, or it is mixed and is therefore not allowed at an inert landfill. This also means that article 3, point 2 must be amended. Inert C&DW should not be used for redevelopment/restoration and filling-in work in landfills (what is filling-in work in a landfill??). This is no less than a permit for full landfilling of C&DW.

Inert waste for which treatment is not technically feasible

This clause can never apply to C&DW. Treatment of C&DW is technically and economically very well feasible. This is proven by the enormous amount of recycling installations throughout Europe. The provision (art.6 (a)) therefore applies to C&DW. We come back to the previous item. Once C&DW is treated (in practice: sorted) it is fit for recycling and should therefore not be landfilled.

The impacts of the Landfill Directive

Recently the regulations of the Landfill Directive have been fully implemented in Austria. Austria has developed a sound infrastructure for recycling of C&DW. It ranks amongst the Member States with the highest recycling quotes. In 2006 Austria recycled 75% of the 6.5 million tones of C&DW. Since the full implementation of the Landfill Directive increasing amounts of inert C&DW have been brought to landfills. The C&DW recycling industry is now experiencing the consequences of the Landfill Directive.

The wider picture

This paper serves to inform you about negative impacts for recycling due to the implementation of the Landfill Directive. These negative impacts will not only be felt in Member States where recycling is well developed. In those Member States where recycling is yet to develop, it faces serious competition from inert landfills. Recycling also faces serious competition from illegal landfilling in Member States such as Spain and Italy.

The aim of the Commission is to develop Europe into a Recycling Society. It has also recognized recycling as a leading market. Other policies such as the Sustainable Use of Natural Resources and the recently initiated Consultation on the Raw Materials Initiative also demand for strong development of recycling. If landfilling is not prohibited, recycling will not develop.

Position of FIR

We think that all efforts must be made that recyclable inert C&DW does not end up at a landfill. Recyclable inert waste comes from selective demolition or from sorting of mixed C&DW and does not contain hazardous substances. It is fit for recycling; recycling is technically and economically very well feasible.

Our questions to you

We would like to meet with you and discuss with you some of the following questions.

- Do you share our view on the Landfill Directive as explained above?
- Can the European Commission bring this view forward to the Member States?
- Can the European Commission actively enforce Member States to interpret and apply the view that inert C&DW is not to be accepted at inert landfills?
- Is it possible, and how, to stop landfilling of clean, inert C&DW which is fully fit for recycling?
- Can the Landfill Directive be amended so that landfilling of C&DW is strictly prohibited?

Kind regards,

Geert Cuperus

General Secretary FIR