



**Response of FIR to the Circular Economy Package of the
European Commission
Comments to the proposal of the European Parliament and of the
Council amending Directive 2008/98/EC on waste**

General

FIR welcomes the Circular Economy Package of the European Commission. With respect to the Waste Framework Directive we see some improvements that might help developing the recycling of C&DW. In our view the proposal would need further improvement in order for really giving recycling a chance. Our main issues are summarized below.

Recital (5) on the need to define backfilling

- Below we explain that introducing the term “backfilling” was a mistake. This mistake should not be repaired by further defining what backfilling is. It must be repaired by deleting the term “backfilling” from the Waste Framework Directive.

We propose the following recital: “Directive 2008/98/EC refers to backfilling as an operation to be included in the target for construction and demolition waste. It has become though that backfilling of construction and demolition waste is contrary to the aims of the Circular Economy. This waste must be treated prior to any application. This treatment means a recycling operation, so that “backfilling” as term is not needed.”

(2) Amending art.3, proposed insertion on a definition of construction and demolition waste:

- With the proposed definition all waste covered by chapter 17 of the List of Waste is defined as construction and demolition waste. This also includes chapter 17.05: soils, stones and dredging spoils. These materials however are usually not considered to constitute construction and demolition waste. As for waste statistics, these materials are excluded from the calculations related to the 70% target for C&DW.

We propose to define as C&DW: waste falling under the construction and demolition waste categories referred to in the list of waste pursuant to Article 7, excluding waste falling under category 17.05.

(2) Amending art. 3, proposed insertion on the definition of backfilling

- The need for a definition of backfilling is a result of the existing target for C&DW, which includes backfilling. As backfilling was not defined so far, a definition is now necessary. This need for including backfilling in the target is however not understood by many experts. Where waste is used in applications referred to in the new definition (landscaping, construction) such applications are already covered by current terminology: these are all recovery operations.

With regard to C&DW it must be well understood that untreated waste may never be used as such for any application. Untreated waste can not be sampled appropriately and therefore the environmental quality of it is unknown. Such material should not be applied in excavated areas, in landscapes or in constructions. C&DW must first be treated prior to any use. Such treatment, in most cases crushing, is a recycling operation. Hence: all C&DW can only be used in applications after a recycling operation. This means that per definition C&DW can only be recycled and not be “backfilled”.

The proposed definition in our view is improper. It collides with existing EU legislation and is vague:

- “backfilling means any recovery operation where suitable waste is used”; what is meant by “suitable”?
- Use of waste in construction is also considered as backfilling. According to the Construction Product Regulation (CPR) materials to be used in construction must comply with a series of requirements. This includes that a declaration of performance is required covering essential characteristics as described in the CPR. C&DW can never fulfil the criteria of the CPR. Including backfilling in the 70% target and providing for a definition of backfilling as proposed, collides with the principles of the CPR.

In several Member States such as The Netherlands, Belgium and Germany high recycling percentages have been achieved for C&DW with high quality uses of recycled aggregates in road construction. Using the proposed definition of backfilling the existing high quality recycling in the mentioned Member States must now be regarded as mere backfilling. This will strongly damage the image of the recycling industry. The developments will be contrary to the aims of the Circular Economy Package.

We propose to delete the definition of backfilling and to delete backfilling also in relation to the 70% target for C&DW.

(10) Amending art.11 inserting the obligation to sort C&DW

- C&DW does not contain aggregates. It contains inert (stony) material such as concrete, bricks, tiles and ceramics. These are not present as aggregates. They can be processed into aggregates by a recycling process (crushing)
- It is most important that hazardous waste is separated at site, in order to enable sound recycling
- All C&DW in the EU contains more plastics than all MSW. Recovery of plastics is furthermore better feasible than plastics from MSW. It should therefore be supported that plastics are recovered from C&DW.

We propose the following amendment:

“Member States shall take measures to promote sorting systems for construction and demolition waste and for at least the following: inert waste, wood, metal, glass, plastics and plaster. Member States shall take measures that hazardous waste is separated from all other waste at construction and demolition sites and collected and treated separately”.

(21) Replacing art 37.3 on verification with article 11(2)(b)

- This proposal says that waste reprocessed into materials that are to be used for backfilling operations shall be reported as backfilling. As for C&DW, reprocessing for any application means for inert waste (which is about 80% of the waste): recycling by crushing. This is what happens in such well performing Member States as The Netherlands, Belgium and Germany. This practice is (in line with existing EU legislation) regarded as recycling. Reprocessing for backfilling, as mentioned in the proposal, means crushing which is recycling. So, recycling of C&DW would have to be reported as “backfilling”.
- There are Member States which are now developing recycling of C&DW, much like well performing Member States did 30 years ago. They start by simple crushing and using recycled aggregates for low quality uses (for instance: intended levelling of landscape). Because, and only because, the Commission introduced the term “backfilling”, these Member States now think they perform backfilling operations. This is not true. They are developing true recycling, although starting with low quality applications.
- The explanation above once more underpins that the Commission made a serious mistake by introducing the term “backfilling” in the 2008 Waste Framework Directive. As a consequence, the current Circular Economy Package contains proposals that are needed to repair this mistake (explaining what backfilling is and explaining that recycling and backfilling must be reported separately whereas they are actually the same).