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STAKEHOLDER SUGGESTIONS

- ENVIRONMENT -

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This document contains suggestions from stakeholders (for example citizens, NGOs, companies) or Member State authorities communicated to the Commission and submitted to the REFIT Platform in a particular policy area.

It is provided by the secretariat to the REFIT Platform members to support their deliberations on the relevant submissions by stakeholders and Member States authorities.

The Commission services have complemented relevant quotes from each suggestion with a short factual explanation of the state of play of any recent, relevant ongoing or planned work by the EU institutions.

The document does not contain any official positions of the European Commission unless expressly cited.

Table of Contents

1. SUMMARY	3
2. STREAMLINING REQUIREMENTS OF PRODUCER RESPONSIBILITY FOR ELECTRIC AND ELECTRON PRODUCTS.....	3
2.1. Submission by the Danish Business Forum (DBF).....	3
2.2. Policy Context	4
3. SIMPLIFYING INITIAL STATUS REPORTS (BASELINE REPORTS) FOR SOIL AND GROUNDWATER	4
3.1. Submission by the German Chambers of Commerce and Industry (DIHK)	4
3.2. Policy Context	5
4. RESOURCE PRODUCTIVITY THROUGH MODERNISED WASTE TRANSPORT RULES IN THE EU.....	5
4.1. Submission by the Danish Business Forum (DBF).....	5
4.2. Submission by the Finnish Survey for better regulation	6
4.3. Policy Context	6
5. THE EU TIMBER REGULATION	6
5.1. Submission by the Finnish Survey for better regulation	6
5.2. Policy Context	7
6. THE AIR QUALITY DIRECTIVE	7
6.1. Submission by the House of Dutch Provinces for better regulation	7
6.2. Policy Context	7

1. SUMMARY

This briefing includes six suggestions in five different areas:

Directive on Waste Electrical and Electronic Equipment:

- The Danish Business Forum (DBF) suggests a standard format for registration and collection of data. The standard format is currently being assessed by an external contractor. Based on the findings the Commission is planning to adopt an implementing act by the end of 2016, in order to establish a common format for registration and reporting of producers of electrical and electronic equipment and to set the frequency of reporting to the register.

Directive on Industrial Emissions:

- The German Chambers of Commerce and Industry (DIHK) suggest an extension of intervals for baseline reports. The guidance in question was adopted by the Commission in 2014 (Communication 2014/C 136/03).

Regulation on Shipment of Waste:

- The Danish Business Forum (DBF) suggests adding more waste to the "green list". The Regulation on shipment of waste was last amended on 15 May 2014.
- The Finnish Survey for better regulation suggests reviewing the Regulation on Shipment of Waste to determine whether any licensing procedure is necessary for shipments of waste to be re-used within the EU.

The Timber Regulation:

- The Finnish Survey for better regulation suggests a more flexible approach to the audits of monitoring organisations. The Timber Regulation has just been evaluated and the findings will be published in a Commission Report in February 2016.

Air Quality Directive:

- The House of Dutch Provinces for better regulation suggests giving provinces and other subnational authorities more flexibility in complying with the rules. This suggestion relates to Directive 2008/50/EC adopted in 2008 which was reviewed in 2013.

2. STREAMLINING REQUIREMENTS OF PRODUCER RESPONSIBILITY FOR ELECTRIC AND ELECTRON PRODUCTS

2.1. Submission by the Danish Business Forum (DBF)

The producer responsibility for electric and electronic products is regulated through the WEEE directive. The directive requires that all producers and importers of electric products must register the quantity they place on the market in any given Member State.

The implementation of the directive varies from Member State to Member State. As a consequence, businesses are faced with systems for registration and data requirements that vary from Member State to Member State.

The Commission should define a standard format that should be used for registration and collection of data.

2.2. Policy Context

Article 16 of the Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE¹), which entered into force on 13th August 2012, sets the requirements regarding the registration and reporting of producers of electrical and electronic equipment (EEE) to the national register. The obligation for Member States to draw up a register of producers and collect information on the quantities and categories of EEE put on their market and on the quantities and categories of WEEE collected, reused, recycled and recovered was introduced by the Directive 2002/96/EC and Member States have already drawn up such registers. However, the information required upon registration differs among the Member States and for that reason, it was noted during the recast that there is need for harmonisation.

On this basis, the Directive 2012/19/EU in Article 16 sets the requirements regarding the registration of EEE producers and introduces the requirements for reporting. More specifically, upon registering, each producer or each authorised representative where appointed under Article 17, shall provide the information set out in Annex X, Part A, undertaking to update it as appropriate.

For reporting, each producer or each authorised representative appointed under Article 17 shall provide the information set out in Annex X, Part B.

Article 16(3) requires the Commission to adopt implementing acts establishing the format for registration and reporting to be applied to all Member States and the frequency of reporting to the national register.

3. SIMPLIFYING INITIAL STATUS REPORTS (BASELINE REPORTS) FOR SOIL AND GROUNDWATER

3.1. Submission by the German Chambers of Commerce and Industry (DIHK)

Companies, which, as a result of their production process, have to carry out frequent changes to the substances used, should have this task made easier for them. For example, consideration can be given to the regular adaptation of the AZB [baseline report] at greater intervals.

There are some installations in Germany which change processes and substances frequently (e.g. big chemical plants). Each of these changes leads to a “substantial change” of the installation. For those installations, it would be very much appreciated to clarify that as long as there is an ongoing operation of the installation, only the longer

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0019>

time periods set forth by the EU Commission in its guidelines apply and an adaption of the baseline report is not necessary.

This would mean that the meaning and purpose of the regulation, i.e. the removal of plant-related soil and groundwater contamination after operations are closed down, would also be achieved. The risk of a soil and groundwater remediation obligation would remain with the plant operator, who has to return the land on which the plant is located to proper condition after the plant has been closed down.

3.2. Policy Context

Based on Article 22 of the Industrial Emissions Directive (IED²), a new permit and mandatory update of the baseline report are only required where changes to an installation are substantial and involve the use of new relevant hazardous substances.

Article 20 of the IED requires Member States to ensure that the operator informs the competent authority of any planned change or extension of the installation which may have consequences for the environment. Where appropriate, the competent authority shall update the permit or, where a change is substantial, a new permit will be required. Where substantial change would affect the baseline report, it has to be covered by the permit application and decision.

The monitoring of soil and groundwater is regulated by Article 16 of the IED, which sets a minimum frequency of at least once every 5 years for groundwater and at least once every 10 years for soil, unless such monitoring is based on a systematic appraisal of the risk of contamination.

The EU legislation sets the principles and framework and leaves it to the discretion of the competent authorities in Member States to decide on the frequency of amending an established baseline report and monitoring the pollution of soil and groundwater, as long as the overall objectives of the IED are met.

4. RESOURCE PRODUCTIVITY THROUGH MODERNISED WASTE TRANSPORT RULES IN THE EU

4.1. Submission by the Danish Business Forum (DBF)

The current regulation of cross-border transport of waste makes transport of secondary resources expensive and there is no clear distinction between the different types of waste disposal. Furthermore, resources for oversight and control are not spent effectively. Consequently, waste that could be reused is sent to incineration instead, which goes against the EU's priorities for a resource-efficient, greener and more competitive economy.

More types of waste should be added to the "green list" of Regulation 1013/2006 on shipments of waste. This can be done without actually changing the regulation and it would allow for increased reuse of these types of waste.

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010L0075>

4.2. Submission by the Finnish Survey for better regulation

The regulation on shipments of waste (1013/2006) should be reviewed to determine whether any licensing procedure is necessary for shipments of waste to be re-used within the EU. No equivalent requirements have been imposed on virgin raw materials. From the point of view of the circular economy, the recovery of wastes suitable for use as a raw material in various processes would be essential to the EU's objectives of reducing waste and promoting recycling. The licensing procedure should be abandoned. Another problem is that the concept of 'waste' is ambiguous.

4.3. Policy Context

Shipment of waste may involve hazardous wastes that can pose potential risks for human health and the environment. Therefore, the EU regulates waste shipments to ensure sound health and environmental protection.

To address the problem of uncontrolled transport of waste, Regulation (EC) No 1013/2006 of 14 June 2006 on shipments of waste³ lays down procedures for transboundary shipments (i.e. transport) of waste. This Regulation implements into EU law the provisions of the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" as well as an OECD Decision concerning the control of transboundary movements of wastes destined for recovery operations. This bans the export of hazardous wastes to non-OECD countries ("Basel ban") as well as the export of waste for disposal.

Different regimes apply to shipments of wastes for disposal and for recovery, as well as to hazardous and "green-listed" non-hazardous wastes. The shipment of hazardous wastes and of wastes destined for disposal is generally subject to notification procedures with the prior written consent of all relevant authorities of dispatch, transit and destination (Articles 4-17 of Regulation (EC) No 1013/2006). However, the shipment of "green-listed" wastes for recovery within the EU and OECD does not require any prior consent of the authorities (the shipment shall be accompanied by an information document, see further Article 18 and Annex VII of Regulation (EC) No 1013/2006).

5. THE EU TIMBER REGULATION

5.1. Submission by the Finnish Survey for better regulation

The purpose of the EU timber regulation (EU No 995/2010) is to prevent illegally harvested wood from being placed on the EU internal market. A more flexible approach to the audits of the monitoring organisations would alleviate the administrative burden placed on the competent authorities and reduce the need for resources required for these audits. Efforts should be made to alleviate the administrative burden and reduce the additional costs incurred by the operators as effectively as possible by making use of the existing systems for verifying sustainability and compliance with the law.

³ <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32006R1013>

5.2. Policy Context

Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (EU Timber Regulation)

6. THE AIR QUALITY DIRECTIVE

6.1. Submission by the House of Dutch Provinces for better regulation

Legislation

Air quality directive

Problem description/burden on citizens and business

This is an important subject in the Netherlands; the European rules help the provinces to improve air quality. At present, the standard for air pollution that may not be exceeded is the same everywhere. This means that alongside a busy traffic route with no local residents, the same maximum emission standards apply as in a quiet residential district. This has a number of undesirable side effects:

- A great deal of money and energy is invested in achieving the standard alongside busy roads, while those efforts do not always result in health improvements because these areas are home to few people;
- Government introduces measures to spread traffic flows to remain below the standard, as a result of which the pollution is also spread over a wider area. For health, it would in fact be better to combine traffic flows, and to concentrate pollution in those chosen areas.

Simplification measure/suggestion

Provinces and other subnational authorities need to be given more possibilities for solving the problems by taking the objectives of the regulations into account, rather than having to strictly comply with the rules.

In a directive such as the Air Quality Directive, the question of health must take priority over environmental hygiene. In reforming the directive, this is the overall aim.

6.2. Policy Context

This suggestion relates to Directive 2008/50/EC (i.e. on ambient air quality and cleaner air for Europe), which defines and establishes objectives for ambient air quality designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole. In addition, it lays out measures to assess the ambient air quality.

The Directive as such poses an obligation of result (i.e. the Directive establishes limit values regarding the concentration of air pollutants), not an obligation of means (i.e. the Directive leaves it up to Member States on how best to maintain good air quality and keep exceedance periods above limit values as short as possible).

Note that the EU air policy review in 2013, concluded it is not appropriate to revise the

Ambient Air Quality Directive now. Policy should focus rather on achieving compliance with existing air quality standards by 2020 at the latest. Meanwhile, the Directive would remain a key policy to head towards future concentrations below the (stricter) WHO guideline values everywhere.

Note that as of January 2016, the Commission has 23 open infringement cases against 17 Member States for exceedances of air quality limit values regarding particulate matter, nitrogen dioxide, and sulphur dioxide, respectively. There are additional exceedances which are either addressed by Pilot letters or were subject to time extensions (which have now expired).

Exposure to poor air quality of urban populations continues to be one of the main environment concerns in the EU. It has been estimated to be responsible for more than 400.000 premature deaths each year. Meeting the current limit values (which, by the way, are not as stringent as recommended by the WHO) will be paramount to address this.