



Council of the  
European Union

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(OR. en)

9126/1/18  
REV 1  
PV CONS 27  
EDUC 166  
JEUN 62  
CULT 63  
AUDIO 37  
SPORT 32

**DRAFT MINUTES**  
**COUNCIL OF THE EUROPEAN UNION**  
**(Education, Youth, Culture and Sport)**  
22 and 23 May 2018

## CONTENTS

Page

1.	Adoption of the agenda .....	4
2.	Approval of "A" items	
a)	Non-legislative list .....	4
b)	Legislative list .....	5

### Non-legislative activities

#### EDUCATION

3.	Revision of the Recommendation on key competences for lifelong learning .....	7
4.	Recommendation on promoting common values, inclusive education, and the European dimension of teaching.....	7
5.	Conclusions on moving towards a vision of a European Education Area.....	7
6.	The potential of universities for regional growth and for promoting entrepreneurial and innovative skills.....	7

#### YOUTH

7.	Conclusions on the role of young people in building a secure, cohesive and harmonious society in Europe .....	7
8.	Conclusions on the role of youth in addressing the demographic challenges within the European Union.....	7
9.	Future priorities for EU Youth policy .....	8

### Any other business

#### Education

10.	a) Addressing anti-semitism through education - guidelines for policymakers.....	8
	b) The European school sport day (29 September 2018) .....	8

#### Youth

c)	European Youth Together .....	8
d)	The Franco-Belgian declaration of Ministers responsible for Youth on the Prevention of violent radicalisation .....	8

#### Education and Youth

e)	Work programme of the incoming Presidency .....	8
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## Non-legislative activities

### CULTURE/AUDIOVISUAL

- 11. Conclusions on the need of bringing cultural heritage to the fore across policies in the EU..... 9
- 12. The way ahead: Long term vision for the contribution of culture to the EU after 2020 ..... 9

### SPORT

- 13. Conclusions on promoting the common values of the EU through sport..... 9
- 14. Commercialisation of elite sports and the sustainability of the European Model of Sport..... 10

### Any other business

#### Culture/Audiovisual

- 15. a) Current legislative proposals..... 10
- b) European Capitals of Culture 2022 ..... 11

#### Sport

- c) World Anti-Doping Agency (WADA) meetings ..... 11
- d) Informal meeting of the EU Ministers for Sport ..... 11

#### Culture/Audiovisual and Sport

- e) Work programme of the incoming Presidency ..... 11

ANNEX - Statements for the Council minutes ..... 12

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## MEETING ON TUESDAY 22 MAY 2018 (10:00)

### 1. Adoption of the agenda

The Council adopted the agenda set out in 8714/18.

### 2. Approval of "A" items

#### a) Non-legislative list

8716/18

The Council adopted the "A" items listed in 8716/18 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following items, the related documents should read as follows:

### EU positions for international negotiations

- |   |  |
|---|--|
| 1. Council Decision on the EU position at the OTIF-RID Committee (30 May 2018)<br><i>Adoption</i><br>approved by Coreper, Part 1, on 16.05.2018 | ☐ 7561/18<br>7209/18 + ADD 1<br><u>+ ADD 1 COR 1</u><br><u>(pl)</u><br>TRANS |
|---|--|

### Institutional Affairs

#### Appointments

- |   |                                       |
|---|---------------------------------------|
| 5. One member (DK) in the Governing Board of the European Foundation for the Improvement of Living and Working Conditions<br><i>Adoption</i><br>approved by Coreper, Part 1, on 16.05.2018. | 8566/18<br><u>+ COR 1 (It)</u><br>SOC |
|---|---------------------------------------|

b) **Legislative list (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)**

8717/18

**Environment**

1. **Waste package: Directive on waste**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 16.05.2018



8502/18

+ ADD 1 REV 2

PE-CONS 11/18

ENV

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Hungary and Portugal abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU).

Statements related to this item are set out in the Annex.

2. **Waste package: Directive on ELV/Batteries/WEEE**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 16.05.2018



8500/1/18 REV 1

+ **REV 1 ADD 1**

**REV 1**

PE-CONS 9/18

ENV

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Hungary abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU).

Statements related to this item are set out in the Annex.

3. **Waste package: Directive on Landfill of waste**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 16.05.2018



8501/1/18 REV 1

+ REV 1 ADD 1

PE-CONS 10/18

ENV

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Hungary abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU).

Statements related to this item are set out in the Annex.

**4. Waste package: Directive on packaging waste**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 16.05.2018



8503/1/18 REV 1

+ REV 1 ADD 1

PE-CONS 12/18

ENV

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Hungary abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114(1) TFEU).

Statements related to this item are set out in the Annex.

**Agriculture**

**5. Regulation on organic farming**

*Adoption of the legislative act*

approved by SCA, on 14.05.2018



8401/2/18 REV 2

8401/1/18 REV 1

ADD1

+ **REV 1 ADD 1**

**REV 1 (en)**

PE-CONS 62/17

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Czech Republic, Finland, Slovakia, Lithuania and Cyprus voting against, and Belgium, Hungary and Austria abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) TFEU).

Statements related to this item are set out in the Annex.

**Internal Market and Industry**

**6. Regulation on type approval**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 16.05.2018



8499/2/18 REV 2

+ REV 2 ADD 1

PE-CONS 73/17

IND

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Latvia, the Czech Republic, Slovakia and Germany abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

Statements related to this item are set out in the Annex.

## Non-legislative activities

### EDUCATION

The Council addressed the following non-legislative discussion items (3-5)

- |    |   |                 |
|----|---|-----------------|
| 3. | Revision of the Recommendation on key competences for lifelong learning<br><i>Adoption</i>  | ☐ 8299/18       |
| 4. | Recommendation on promoting common values, inclusive education, and the European dimension of teaching<br><i>Adoption</i>                       | ☐ 8015/18       |
| 5. | Conclusions on moving towards a vision of a European Education Area<br><i>Adoption</i>  | 8701/18 + COR 1 |
| 6. | <b><u>The potential of universities for regional growth and for promoting entrepreneurial and innovative skills</u></b><br><i>Policy debate</i> | ☐ 8074/18       |

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (doc. 8074/18).

Ministers highlighted the importance of cooperation between universities, business and local authorities for fostering regional growth and cohesion. The discussion focused on the type of measures and incentives that could be put in place by authorities to foster the potential of higher education institutions and their role in smart specialisation strategies. Ministers also stressed the importance of seeking synergies between relevant instruments.

### YOUTH

The Council also addressed the following non-legislative discussion items. (7-8)

- |    |  |         |
|----|--|---------|
| 7. | Conclusions on the role of young people in building a secure, cohesive and harmonious society in Europe<br><i>Adoption</i> | 7834/18 |
| 8. | Conclusions on the role of youth in addressing the demographic challenges within the European Union<br><i>Adoption</i>     | 8301/18 |

## 9. Future priorities for EU Youth policy

8273/1/18 REV 1

### Policy debate

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (doc. 8273/1/18 REV 1). An introduction to the debate was given by an external guest speaker Mr Hassan Al Hilou, Community Leader of the YouthTalks Foundation.

Ministers stressed the need to renew the structured dialogue with young people, as well as to increase the transparency of processes, to monitor the results achieved and to improve communication between all stakeholders. They highlighted the importance of involving all young people, including those that are difficult to reach and those with fewer opportunities. Many ministers also mentioned the need for a cross-sectoral approach in the shaping of youth policies, as well as the need for a greater and more efficient participation of young people in decision making.

### Any other business

The Council addressed the following any other business items (10 a) - e))

#### Education

10. a) Addressing anti-semitism through education - guidelines 8333/18  
for policymakers  
*Information from the Presidency*
- b) The European school sport day (29 September 2018) 8711/18  
*Information from the Commission*

#### Youth

- c) European Youth Together 8487/18  
*Information from the Commission*
- d) The Franco-Belgian declaration of Ministers responsible 8486/18  
for Youth on the Prevention of violent radicalisation  
*Information from the Belgian and French delegations*

#### Education and Youth

- e) Work programme of the incoming Presidency  
*Information from the Austrian delegation*




## MEETING ON WEDNESDAY 23 MAY 2018 (10:00)

### Non-legislative activities

#### CULTURE/AUDIOVISUAL

The Council addressed the following non-legislative discussion item. (11)

11. Conclusions on the need of bringing cultural heritage to the fore across policies in the EU 8544/18  
*Adoption*
  
12. **The way ahead: Long term vision for the contribution of culture to the EU after 2020**  8435/18  
*Policy debate*

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (doc. 8435/18).

Ministers welcomed the announcement of the Commission that under the new Multiannual Financial Framework 2021-2027, it intends to propose to keep the funding programme for culture and media as a self-standing programme with an increased budget. Many ministers underlined the importance of the mobility of artists and cultural professionals for the strengthening of ties within European societies and for the free circulation of ideas and creativity. Ministers also welcomed the New European Agenda for Culture adopted by the Commission on 22 May. Among other priorities for the future culture policy, ministers mentioned linguistic diversity, music, digital access to culture and support for cultural and creative sectors. A focus on youth, support for internationalisation and the need to tackle disinformation were also mentioned by ministers.

#### SPORT

The Council addressed the following non-legislative discussion item. (13)

13. Conclusions on promoting the common values of the EU through sport 8032/18  
*Adoption*

14. **Commercialisation of elite sports and the sustainability of the European Model of Sport**

 8558/18

*Policy debate*

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (doc. 8558/18). The policy debate was introduced by an external guest speaker, Mr Aleksander Čeferin, President of the Union of European Football Associations (UEFA).

Ministers emphasised that the European Model of Sport is still functioning but is in need of more support. They expressed concerns about the side effects of the commercialisation of sport and the concentration of funding in a small number of elite clubs.

Ministers highlighted the need for focused measures in particular at grass-roots level, whilst preserving the autonomy of sport. They believed that the Member States could contribute to the sustainability of the European Model of Sport by allowing the funding of sports structures and by enhancing the implementation of community-level projects.



**Any other business**

Culture/Audiovisual

15. a) **Current legislative proposals**

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

- i) **Directive amending Directive (2006/112/EC) as regards rates of value added tax – actively engaging in negotiations from a cultural policy perspective**

  
 8488/18

*Information from the German delegation*

The Council took note of the information provided by the DE delegation and the interventions by the SI, FR, PT, EL and PL delegations.

ii) **Regulation on the import of cultural goods**  
*Information from the French delegation*

 8517/18  


The Council took note of the information provided by the FR delegation and the interventions by the DE, CZ, EL, ES, HR and PT delegations.

The Council addressed the following any other business items. (15 b) - e))

- b) European Capitals of Culture 2022 8266/18  
*Information from the Lithuanian and Luxembourg delegations*





Sport

- c) World Anti-Doping Agency (WADA) meetings  
(Montreal, 16-17 May 2018)  
*Information from the EU Member States representatives in the WADA Foundation Board*
- d) Informal meeting of the EU Ministers for Sport 8580/18  
(Paris, 31 May 2018)  
Signing of a declaration for a Europe of Sport on the horizon of the 2024 Paris Olympic and Paralympic Games  
*Information from the French delegation*

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Culture/Audiovisual and Sport

- e) Work programme of the incoming Presidency  
*Information from the Austrian delegation*

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-  Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
-  Special legislative procedure
-  First reading
-  Item based on a Commission proposal

STATEMENTS FOR THE COUNCIL MINUTESStatements to legislative "A" items set out in 8717/18

**Ad "A" item 1:**        **Waste package: Directive on waste**  
*Adoption of the legislative act*

**DECLARATION BY THE COMMISSION ON A POLICY FRAMEWORK FOR THE CIRCULAR ECONOMY**

"The Commission is committed to ensuring full implementation of the EU action plan for the Circular Economy<sup>1</sup>. To keep track of progress towards the circular economy, the Commission has adopted a monitoring framework<sup>2</sup> building on the existing Resource Efficiency and Raw Materials Scoreboards. The Commission also draws attention to its ongoing work on a footprint indicator for products and organisations.

Actions undertaken under the EU action plan for the Circular Economy also contribute to fulfilling the Union's objectives on sustainable consumption and production, in the context of Sustainable Development Goal 12. This is the case, for example, of the strategy on plastics<sup>3</sup> or the recently amended proposal on the legal guarantee for consumer goods<sup>4</sup>.

As regards consistency between the Union's regulatory frameworks, the Commission has also recently adopted a Communication setting out options to address the interface between chemical, product and waste legislation<sup>5</sup>. In 2018, the Commission will also examine options and actions for a more coherent policy framework of the different strands of work on EU product policy in their contribution to the circular economy. The interactions between legislation and industry cooperation on the use of by-products and the preparation for re-use and recycling of waste will also be considered in the framework of these initiatives and their follow-up.

As regards eco-design, the Commission, in line with the Eco-design Working Plan for the years 2016-2019<sup>6</sup>, confirms its strong commitment to ensuring that eco-design makes a more significant contribution to the circular economy, for example by more systematically tackling material efficiency issues such as durability and recyclability."

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1        COM(2015) 614 final  
2        COM(2018) 29 final  
3        COM (2018) 28 final  
4        COM(2017) 637 final  
5        COM (2018) 32 final  
6        COM(2016) 773 final

## **DECLARATION BY THE COMMISSION ON INITIATIVES ON THE COLLABORATIVE ECONOMY**

"In line with the Circular Economy Action Plan<sup>7</sup>, the Commission has launched a number of initiatives on the collaborative economy. As announced in its Communication on a European agenda for the collaborative economy<sup>8</sup> in June 2016, the Commission will continue to monitor the economic and regulatory developments of the collaborative economy, in order to encourage the development of new and innovative business models, while ensuring adequate consumer and social protection."

## **DECLARATION BY THE COMMISSION ON MICRO-PLASTICS**

"In the context of the recently adopted European Strategy for Plastics in the Circular Economy<sup>9</sup>, the Commission has presented an integrated approach to address concerns about micro-plastics, including micro-bead ingredients. It focuses on preventive actions and aims at reducing the release of micro-plastics from all main sources – whether from products in which they are intentionally added (such as personal care products and paints) or originating from the production or use of other products (such as oxo-plastics, tyres, plastic pellets, and textiles)."

## **DECLARATION BY THE COMMISSION ON THE REVIEW OF THE WASTE SHIPMENT REGULATION AND END-OF-WASTE MATERIALS**

"In the context of the planned review of Regulation (EU) No 1013/2006 on shipments of waste to be conducted by the end of 2020, the Commission will consider the feasibility of providing for further measures regarding shipments of end-of-waste materials where end-of-waste criteria have not been set at Union level according to Article 6, paragraph 2, of the Waste Framework Directive."

## **DECLARATION BY THE COMMISSION ON MEASURES TO ENSURE TREATMENT OF WASTE PRIOR TO LANDFILLING**

"In accordance with Article 6 (a) of Directive 1999/31/EC on the landfill of waste Member States shall take measures to ensure that only waste that has been subject to treatment is landfilled, while making sure that such measures do not compromise the achievement of the objectives of Directive 2008/98/EC on waste (Waste Framework Directive) as revised, notably with respect to the waste hierarchy, the separate collection of waste and the preparing for re-use and recycling targets as set out in that Directive.

Building on the exchange of views that took place during the Waste Framework Directive Experts' Group meeting held on 30 June 2017 and in the light of the ruling of the Court of Justice of the European Union in case C-323/13, in the coming months the Commission will step up its dialogue with Member States on the policy measures to be taken in this area."

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<sup>7</sup> COM(2015) 614 final

<sup>8</sup> COM(2016) 356 final

<sup>9</sup> COM (2018) 28 final

## **DECLARATION BY THE COMMISSION ON THE PROCEDURE OF ADOPTION OF IMPLEMENTING ACTS**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission *may* adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

## **DECLARATION BY THE COMMISSION ON THE AVAILABILITY OF DATA AND REPORTING OBLIGATIONS**

"In view of monitoring progress towards the new targets for municipal and packaging waste and in view of relevant review clauses, in particular to set targets for food waste prevention and for the recycling of waste oils, the Commission underlines the importance of the common understanding reached between the co-legislators that Member States will ensure that the reporting of data under Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste and 1999/31/EC on the landfill of waste as amended, will cover the year 2020."

## **STATEMENT BY POLAND**

### **Frequency of reporting by Member States**

"Poland was disappointed to note the information concerning the increase in the frequency of reporting by Member States.

The draft directives increase the frequency of reporting by Member States from every two years to annually, which was never accepted in the mandate. The solutions put forward constitute a significant administrative burden for the Member States. Poland supported the mandate in May 2017 on condition that it took into account Poland's request regarding reporting frequency."

## **STATEMENT BY PORTUGAL**

"Portugal is fully committed to the objectives of the circular economy, and recognises that increasingly upstream action is needed to promote it. In that respect, Portugal recognises the importance of this agreement for the environment and for the economy, as well as in confirming the EU's leading role in this field. However, it can only express its considerable dissatisfaction with the solution that has ultimately been chosen, in respect of the requirement for separate collection of bio-waste in 2023 and the corresponding phase-out of mechanical and biological treatments in 2027, which does not take account either of national circumstances or of investments made with EU backing, thus setting the stage for a potential breach of the adopted provisions given that the targets that have been set require strategic policy changes to be made and technology to be repurposed. The rolling out of separate bio-waste collection systems across the entire country, which increases the need for support from the public, will be very difficult within that time frame.

Compliance with such provisions will once again require a substantial financial effort, the impact of which will be greater the shorter the time frame given for making the associated adjustments. This issue should be duly taken into consideration in the definition of EU support for new investments associated with this type of intervention. Moreover, the consolidated text of the four legislative proposals goes beyond the provisional agreement in areas which are of key interest to Portugal, namely as regards the setting of new interim targets in 2024 and the possible revision of other targets for specific streams and fractions, such as construction and demolition waste (CDW), textiles, commercial waste and non-hazardous industrial waste, as well as targets for the reuse of municipal waste.

Furthermore, it provides for delegated acts adopted by the European Commission to define strategic matters relating to the application of the law, and uncertainty remains over the definition of treatment operations, with an impact on the calculation of targets relating to preparation for reuse and recycling and to recovery.

We therefore consider that the underlying objectives of harmonising procedures and promoting comparability of data, which are the pillars supporting the revision of these directives, are seriously undermined.

In view of the above, Portugal abstains from voting on the current legislative proposal."

### **STATEMENT BY GREECE**

"Greece supports the overall compromise achieved during the negotiations for the "Waste Package", acknowledging the painstaking efforts it took to reach an agreement, as well as the importance of the package within the Circular Economy Strategy.

However, a number of important provisions have been included in the course of the negotiations that are not legally coherent, or that have not been based on proper impact assessment, in particular:

Art. 9(1) indent nine & Art.9(1a) on the interface between REACH and waste, as well as the lack of reference to Art. 10(2) & 10(3) of WFD in:

Art. 11(1) on selective demolition,

Art. 18.3 on mixed hazardous waste,

Art. 20 on separate collection of household hazardous waste and

Art. 22(1) on biowaste

In our view, the implementation of the said provisions is likely to prove so challenging in practice for businesses, the public administration and for citizens, that it will even be counterproductive as to the overall objective of promoting circular economy in a sustainable manner.

Furthermore, we are of the opinion that the full financial responsibility shall be borne by the EPR systems and we note that the 10% landfill target of municipal waste by 2035/2040 does not sufficiently take into account the different social conditions or population density and characteristics between MSs and leads inevitably to increased incineration, which is a sub-optimal outcome.

Moreover, we encourage the Commission to address in a systematic and coherent manner the specific characteristics of small remote islands as part of the implementing measures of the package and notably of the revised Landfill Directive as well as of Art. 10(1) to 10(3) and the aforementioned related provisions."

## STATEMENT BY FINLAND

**"Finland supports the aims and objectives as well as the overall compromise on the "Waste Package", which paves the way for increased recycling and an enhanced circular economy.**

**However, Finland wishes to reiterate its concern about the inconsistency of the overall recycling targets for packaging waste with respect to its material-specific targets** (Article 6, paragraph 1, point (f) and (h) of the Directive on Packaging and Packaging Waste).

More precisely, Finland considers that the reduction in material-specific targets were not sufficiently reflected in the overall recycling targets. Compared to the Commission's proposal, for example, the recycling target for wood packaging waste was reduced by 35 percentage points (from 60% to 25%) in 2025 and by 45 percentage points (from 75% to 30%) in 2030. Despite this, the overall target for 2025 remained the same (65%) as in the Commission's proposal, and the target for 2030 was decreased by only 5 percentage points (from 75% to 70%).

Finland also considers that the overall recycling targets for packaging waste do not sufficiently take into account the fact that Member States' ability to attain the targets depends significantly on the proportion of certain packaging materials that are used. In this regard, the final deal is particularly unfavourable to those Member States where the use of wood packaging is widespread and where the proportion of wood packaging waste of the total amount of packaging waste is significant.

For these Member States, the overall recycling targets can only be achieved in practice if the recycling rates for wood packaging waste can be increased to levels clearly above the material-specific targets. Even extremely efficient recycling of other packaging waste materials (i.e. much higher than their material-specific recycling targets) could not compensate for the dominant impact of the lower recycling rate for wood packaging. This is contradictory given that the recycling targets for wood packaging waste were deliberately set at a lower level due to the limited recycling potential.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the waste package, Finland regrets that the binding overall recycling targets for packaging waste treat Member States unequally according to the proportion of certain packaging materials used in relation to the total amount of all packaging materials."

## STATEMENTS BY GERMANY

### Separate collection

"1. Article 10(2) of the current Waste Framework Directive (WFD) stipulates that, to comply with the recovery requirement under Article 10(1), waste must be collected separately 'if technically, environmentally and economically practicable'. The amendment to Article 10(2) agreed on in the trilogue has removed this proviso and replaced it in the new Article 10(3) with a special derogation clause under which Member States may allow derogations from the separate collection requirement subject to certain conditions. This amendment to Article 10 of the Waste Framework Directive not only impacts direct obligations on producers and holders, it also affects Member States' obligation to ensure separate collection of certain wastes, achieve recycling quotas (Article 11 WFD) and collect bio-waste separately (Article 22 WFD).



Germany supports the objective pursued by the WFD of achieving a sustainable circular economy at both EU and national level. All those concerned should participate in efforts to achieve a circular economy; the circular economy therefore requires a sound legal basis. Germany would point out that, irrespective of the derogation clause in Article 10(3) of the WFD, both the Treaty on the Functioning of the European Union and German constitutional law stipulate that legally binding obligations such as, in particular, separate collection obligations may only be imposed on waste producers and holders if they are proportionate, i.e. suitable, necessary and appropriate with a view to improving recycling.

2. The same applies to the new ban on the incineration of separately collected waste pursuant to Article 10(3a) (new) of the WFD and the ban on landfilling such waste under the new point (f) of Article 5(3) of the Landfill Directive. These bans may only be imposed on waste producers and holders if they are proportionate. Furthermore, Article 13 of the WFD requires the management of such waste to be carried out without endangering human health and without harming the environment."

**Regarding the obligation to provide the ECHA with information about articles (Article 9(1)(i) and Article 9(2) of the Waste Framework Directive)**

"The provision inserted in the ninth indent of Article 9(1)(i) and in Article 9(2) during the final phase of the trilogue negotiations, which provides that articles which contain substances of very high concern within the meaning of the REACH Regulation are to be included in a database at the European Chemicals Agency ECHA, raises a number of detailed questions that need to be clarified so that Member States can draw up regulations which are in keeping with the goals of the provision. For example, clarification is required as to how to identify the articles concerned in such a way that they can be entered into a central database in an easily retrievable form. Additionally, common provisions need to be drawn up to deal with the issue of the multiple submissions of data for one and the same article which are to be expected in large numbers as a result of extending the obligations to all suppliers along the supply chain.

Germany considers it regrettable that this provision, which will demand a considerable effort from all parties, was included in the draft without the appropriate preparation in terms of content or the appropriate impact assessment required for such a complex issue. Germany is only able to agree in view of the overall compromise achieved in the trilogue procedure. Germany requests that the Commission, in consultation with the ECHA as the body responsible for maintaining the database, specify the precise details necessary to enable the ECHA and Member States to implement the provision in an appropriate manner while limiting the workload to the necessary minimum. Should the Commission be of the opinion that this requires supplementary amendments to Union law, the Commission is requested to submit corresponding draft provisions."

**Ad "A" item 2:      **Waste package: Directive on ELV/Batteries/WEEE**  
*Adoption of the legislative act***

**DECLARATION BY THE COMMISSION ON A POLICY FRAMEWORK FOR THE CIRCULAR ECONOMY**

"The Commission is committed to ensuring full implementation of the EU action plan for the Circular Economy<sup>10</sup>. To keep track of progress towards the circular economy, the Commission has adopted a monitoring framework<sup>11</sup> building on the existing Resource Efficiency and Raw Materials Scoreboards. The Commission also draws attention to its ongoing work on a footprint indicator for products and organisations.

Actions undertaken under the EU action plan for the Circular Economy also contribute to fulfilling the Union's objectives on sustainable consumption and production, in the context of Sustainable Development Goal 12. This is the case, for example, of the strategy on plastics<sup>12</sup> or the recently amended proposal on the legal guarantee for consumer goods<sup>13</sup>.

As regards consistency between the Union's regulatory frameworks, the Commission has also recently adopted a Communication setting out options to address the interface between chemical, product and waste legislation<sup>14</sup>. In 2018, the Commission will also examine options and actions for a more coherent policy framework of the different strands of work on EU product policy in their contribution to the circular economy. The interactions between legislation and industry cooperation on the use of by-products and the preparation for re-use and recycling of waste will also be considered in the framework of these initiatives and their follow-up.

As regards eco-design, the Commission, in line with the Eco-design Working Plan for the years 2016-2019<sup>15</sup>, confirms its strong commitment to ensuring that eco-design makes a more significant contribution to the circular economy, for example by more systematically tackling material efficiency issues such as durability and recyclability."

**DECLARATION BY THE COMMISSION ON INITIATIVES ON THE COLLABORATIVE ECONOMY**

"In line with the Circular Economy Action Plan<sup>16</sup>, the Commission has launched a number of initiatives on the collaborative economy. As announced in its Communication on a European agenda for the collaborative economy<sup>17</sup> in June 2016, the Commission will continue to monitor the economic and regulatory developments of the collaborative economy, in order to encourage the development of new and innovative business models, while ensuring adequate consumer and social protection."

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<sup>10</sup> COM(2015) 614 final  
<sup>11</sup> COM(2018) 29 final  
<sup>12</sup> COM (2018) 28 final  
<sup>13</sup> COM(2017) 637 final  
<sup>14</sup> COM (2018) 32 final  
<sup>15</sup> COM(2016) 773 final  
<sup>16</sup> COM(2015) 614 final  
<sup>17</sup> COM(2016) 356 final

## **DECLARATION BY THE COMMISSION ON MICRO-PLASTICS**

"In the context of the recently adopted European Strategy for Plastics in the Circular Economy<sup>18</sup>, the Commission has presented an integrated approach to address concerns about micro-plastics, including micro-bead ingredients. It focuses on preventive actions and aims at reducing the release of micro-plastics from all main sources – whether from products in which they are intentionally added (such as personal care products and paints) or originating from the production or use of other products (such as oxo-plastics, tyres, plastic pellets, and textiles)."

## **DECLARATION BY THE COMMISSION ON THE REVIEW OF THE WASTE SHIPMENT REGULATION AND END-OF-WASTE MATERIALS**

"In the context of the planned review of Regulation (EU) No 1013/2006 on shipments of waste to be conducted by the end of 2020, the Commission will consider the feasibility of providing for further measures regarding shipments of end-of-waste materials where end-of-waste criteria have not been set at Union level according to Article 6, paragraph 2, of the Waste Framework Directive."

## **DECLARATION BY THE COMMISSION ON MEASURES TO ENSURE TREATMENT OF WASTE PRIOR TO LANDFILLING**

"In accordance with Article 6 (a) of Directive 1999/31/EC on the landfill of waste Member States shall take measures to ensure that only waste that has been subject to treatment is landfilled, while making sure that such measures do not compromise the achievement of the objectives of Directive 2008/98/EC on waste (Waste Framework Directive) as revised, notably with respect to the waste hierarchy, the separate collection of waste and the preparing for re-use and recycling targets as set out in that Directive.

Building on the exchange of views that took place during the Waste Framework Directive Experts' Group meeting held on 30 June 2017 and in the light of the ruling of the Court of Justice of the European Union in case C-323/13, in the coming months the Commission will step up its dialogue with Member States on the policy measures to be taken in this area."

## **DECLARATION BY THE COMMISSION ON THE PROCEDURE OF ADOPTION OF IMPLEMENTING ACTS**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission *may* adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

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<sup>18</sup> COM (2018) 28 final

## **DECLARATION BY THE COMMISSION ON THE AVAILABILITY OF DATA AND REPORTING OBLIGATIONS**

"In view of monitoring progress towards the new targets for municipal and packaging waste and in view of relevant review clauses, in particular to set targets for food waste prevention and for the recycling of waste oils, the Commission underlines the importance of the common understanding reached between the co-legislators that Member States will ensure that the reporting of data under Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste and 1999/31/EC on the landfill of waste as amended, will cover the year 2020."

### **STATEMENT BY POLAND**

#### **Frequency of reporting by Member States**

"Poland was disappointed to note the information concerning the increase in the frequency of reporting by Member States.

The draft directives increase the frequency of reporting by Member States from every two years to annually, which was never accepted in the mandate. The solutions put forward constitute a significant administrative burden for the Member States. Poland supported the mandate in May 2017 on condition that it took into account Poland's request regarding reporting frequency."

### **STATEMENT BY GREECE**

"Greece supports the overall compromise achieved during the negotiations for the "Waste Package", acknowledging the painstaking efforts it took to reach an agreement, as well as the importance of the package within the Circular Economy Strategy.

However, a number of important provisions have been included in the course of the negotiations that are not legally coherent, or that have not been based on proper impact assessment, in particular:

Art. 9(1) indent nine & Art.9(1a) on the interface between REACH and waste, as well as the lack of reference to Art. 10(2) & 10(3) of WFD in:

Art. 11(1) on selective demolition,

Art. 18.3 on mixed hazardous waste,

Art. 20 on separate collection of household hazardous waste and

Art. 22(1) on biowaste

In our view, the implementation of the said provisions is likely to prove so challenging in practice for businesses, the public administration and for citizens, that it will even be counterproductive as to the overall objective of promoting circular economy in a sustainable manner.

Furthermore, we are of the opinion that the full financial responsibility shall be borne by the EPR systems and we note that the 10% landfill target of municipal waste by 2035/2040 does not sufficiently take into account the different social conditions or population density and characteristics between MSs and leads inevitably to increased incineration, which is a sub-optimal outcome.

Moreover, we encourage the Commission to address in a systematic and coherent manner the specific characteristics of small remote islands as part of the implementing measures of the package and notably of the revised Landfill Directive as well as of Art. 10(1) to 10(3) and the aforementioned related provisions."

## STATEMENT BY FINLAND

**"Finland supports the aims and objectives as well as the overall compromise on the "Waste Package", which paves the way for increased recycling and an enhanced circular economy.**

**However, Finland wishes to reiterate its concern about the inconsistency of the overall recycling targets for packaging waste with respect to its material-specific targets (Article 6, paragraph 1, point (f) and (h) of the Directive on Packaging and Packaging Waste).**

More precisely, Finland considers that the reduction in material-specific targets were not sufficiently reflected in the overall recycling targets. Compared to the Commission's proposal, for example, the recycling target for wood packaging waste was reduced by 35 percentage points (from 60% to 25%) in 2025 and by 45 percentage points (from 75% to 30%) in 2030. Despite this, the overall target for 2025 remained the same (65%) as in the Commission's proposal, and the target for 2030 was decreased by only 5 percentage points (from 75% to 70%).

Finland also considers that the overall recycling targets for packaging waste do not sufficiently take into account the fact that Member States' ability to attain the targets depends significantly on the proportion of certain packaging materials that are used. In this regard, the final deal is particularly unfavourable to those Member States where the use of wood packaging is widespread and where the proportion of wood packaging waste of the total amount of packaging waste is significant.

For these Member States, the overall recycling targets can only be achieved in practice if the recycling rates for wood packaging waste can be increased to levels clearly above the material-specific targets. Even extremely efficient recycling of other packaging waste materials (i.e. much higher than their material-specific recycling targets) could not compensate for the dominant impact of the lower recycling rate for wood packaging. This is contradictory given that the recycling targets for wood packaging waste were deliberately set at a lower level due to the limited recycling potential.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the waste package, Finland regrets that the binding overall recycling targets for packaging waste treat Member States unequally according to the proportion of certain packaging materials used in relation to the total amount of all packaging materials."

## STATEMENTS BY GERMANY

### Separate collection

"1. Article 10(2) of the current Waste Framework Directive (WFD) stipulates that, to comply with the recovery requirement under Article 10(1), waste must be collected separately 'if technically, environmentally and economically practicable'. The amendment to Article 10(2) agreed on in the trilogue has removed this proviso and replaced it in the new Article 10(3) with a special derogation clause under which Member States may allow derogations from the separate collection requirement subject to certain conditions. This amendment to Article 10 of the Waste Framework Directive not only impacts direct obligations on producers and holders, it also affects Member States' obligation to ensure separate collection of certain wastes, achieve recycling quotas (Article 11 WFD) and collect bio-waste separately (Article 22 WFD).

Germany supports the objective pursued by the WFD of achieving a sustainable circular economy at both EU and national level. All those concerned should participate in efforts to achieve a circular economy; the circular economy therefore requires a sound legal basis. Germany would point out that, irrespective of the derogation clause in Article 10(3) of the WFD, both the Treaty on the Functioning of the European Union and German constitutional law stipulate that legally binding obligations such as, in particular, separate collection obligations may only be imposed on waste producers and holders if they are proportionate, i.e. suitable, necessary and appropriate with a view to improving recycling.

2. The same applies to the new ban on the incineration of separately collected waste pursuant to Article 10(3a) (new) of the WFD and the ban on landfilling such waste under the new point (f) of Article 5(3) of the Landfill Directive. These bans may only be imposed on waste producers and holders if they are proportionate. Furthermore, Article 13 of the WFD requires the management of such waste to be carried out without endangering human health and without harming the environment."

**Regarding the obligation to provide the ECHA with information about articles (Article 9(1)(i) and Article 9(2) of the Waste Framework Directive)**

"The provision inserted in the ninth indent of Article 9(1)(i) and in Article 9(2) during the final phase of the trilogue negotiations, which provides that articles which contain substances of very high concern within the meaning of the REACH Regulation are to be included in a database at the European Chemicals Agency ECHA, raises a number of detailed questions that need to be clarified so that Member States can draw up regulations which are in keeping with the goals of the provision. For example, clarification is required as to how to identify the articles concerned in such a way that they can be entered into a central database in an easily retrievable form. Additionally, common provisions need to be drawn up to deal with the issue of the multiple submissions of data for one and the same article which are to be expected in large numbers as a result of extending the obligations to all suppliers along the supply chain.

Germany considers it regrettable that this provision, which will demand a considerable effort from all parties, was included in the draft without the appropriate preparation in terms of content or the appropriate impact assessment required for such a complex issue. Germany is only able to agree in view of the overall compromise achieved in the trilogue procedure. Germany requests that the Commission, in consultation with the ECHA as the body responsible for maintaining the database, specify the precise details necessary to enable the ECHA and Member States to implement the provision in an appropriate manner while limiting the workload to the necessary minimum. Should the Commission be of the opinion that this requires supplementary amendments to Union law, the Commission is requested to submit corresponding draft provisions."

**Ad "A" item 3:**      **Waste package: Directive on Landfill of waste**  
*Adoption of the legislative act*

**DECLARATION BY THE COMMISSION ON A POLICY FRAMEWORK FOR THE CIRCULAR ECONOMY**

"The Commission is committed to ensuring full implementation of the EU action plan for the Circular Economy<sup>19</sup>. To keep track of progress towards the circular economy, the Commission has adopted a monitoring framework<sup>20</sup> building on the existing Resource Efficiency and Raw Materials Scoreboards. The Commission also draws attention to its ongoing work on a footprint indicator for products and organisations.

Actions undertaken under the EU action plan for the Circular Economy also contribute to fulfilling the Union's objectives on sustainable consumption and production, in the context of Sustainable Development Goal 12. This is the case, for example, of the strategy on plastics<sup>21</sup> or the recently amended proposal on the legal guarantee for consumer goods<sup>22</sup>.

As regards consistency between the Union's regulatory frameworks, the Commission has also recently adopted a Communication setting out options to address the interface between chemical, product and waste legislation<sup>23</sup>. In 2018, the Commission will also examine options and actions for a more coherent policy framework of the different strands of work on EU product policy in their contribution to the circular economy. The interactions between legislation and industry cooperation on the use of by-products and the preparation for re-use and recycling of waste will also be considered in the framework of these initiatives and their follow-up.

As regards eco-design, the Commission, in line with the Eco-design Working Plan for the years 2016-2019<sup>24</sup>, confirms its strong commitment to ensuring that eco-design makes a more significant contribution to the circular economy, for example by more systematically tackling material efficiency issues such as durability and recyclability."

**DECLARATION BY THE COMMISSION ON INITIATIVES ON THE COLLABORATIVE ECONOMY**

"In line with the Circular Economy Action Plan<sup>25</sup>, the Commission has launched a number of initiatives on the collaborative economy. As announced in its Communication on a European agenda for the collaborative economy<sup>26</sup> in June 2016, the Commission will continue to monitor the economic and regulatory developments of the collaborative economy, in order to encourage the development of new and innovative business models, while ensuring adequate consumer and social protection."

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<sup>19</sup> COM(2015) 614 final

<sup>20</sup> COM(2018) 29 final

<sup>21</sup> COM (2018) 28 final

<sup>22</sup> COM(2017) 637 final

<sup>23</sup> COM (2018) 32 final

<sup>24</sup> COM(2016) 773 final

<sup>25</sup> COM(2015) 614 final

<sup>26</sup> COM(2016) 356 final

## **DECLARATION BY THE COMMISSION ON MICRO-PLASTICS**

"In the context of the recently adopted European Strategy for Plastics in the Circular Economy<sup>27</sup>, the Commission has presented an integrated approach to address concerns about micro-plastics, including micro-bead ingredients. It focuses on preventive actions and aims at reducing the release of micro-plastics from all main sources – whether from products in which they are intentionally added (such as personal care products and paints) or originating from the production or use of other products (such as oxo-plastics, tyres, plastic pellets, and textiles)."

## **DECLARATION BY THE COMMISSION ON THE REVIEW OF THE WASTE SHIPMENT REGULATION AND END-OF-WASTE MATERIALS**

"In the context of the planned review of Regulation (EU) No 1013/2006 on shipments of waste to be conducted by the end of 2020, the Commission will consider the feasibility of providing for further measures regarding shipments of end-of-waste materials where end-of-waste criteria have not been set at Union level according to Article 6, paragraph 2, of the Waste Framework Directive."

## **DECLARATION BY THE COMMISSION ON MEASURES TO ENSURE TREATMENT OF WASTE PRIOR TO LANDFILLING**

"In accordance with Article 6 (a) of Directive 1999/31/EC on the landfill of waste Member States shall take measures to ensure that only waste that has been subject to treatment is landfilled, while making sure that such measures do not compromise the achievement of the objectives of Directive 2008/98/EC on waste (Waste Framework Directive) as revised, notably with respect to the waste hierarchy, the separate collection of waste and the preparing for re-use and recycling targets as set out in that Directive.

Building on the exchange of views that took place during the Waste Framework Directive Experts' Group meeting held on 30 June 2017 and in the light of the ruling of the Court of Justice of the European Union in case C-323/13, in the coming months the Commission will step up its dialogue with Member States on the policy measures to be taken in this area."

## **DECLARATION BY THE COMMISSION ON THE PROCEDURE OF ADOPTION OF IMPLEMENTING ACTS**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

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<sup>27</sup> COM (2018) 28 final



## **DECLARATION BY THE COMMISSION ON THE AVAILABILITY OF DATA AND REPORTING OBLIGATIONS**

"In view of monitoring progress towards the new targets for municipal and packaging waste and in view of relevant review clauses, in particular to set targets for food waste prevention and for the recycling of waste oils, the Commission underlines the importance of the common understanding reached between the co-legislators that Member States will ensure that the reporting of data under Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste and 1999/31/EC on the landfill of waste as amended, will cover the year 2020."

### **STATEMENT BY POLAND**

#### **Frequency of reporting by Member States**

"Poland was disappointed to note the information concerning the increase in the frequency of reporting by Member States.

The draft directives increase the frequency of reporting by Member States from every two years to annually, which was never accepted in the mandate. The solutions put forward constitute a significant administrative burden for the Member States. Poland supported the mandate in May 2017 on condition that it took into account Poland's request regarding reporting frequency."

### **STATEMENT BY GREECE**

"Greece supports the overall compromise achieved during the negotiations for the "Waste Package", acknowledging the painstaking efforts it took to reach an agreement, as well as the importance of the package within the Circular Economy Strategy.

However, a number of important provisions have been included in the course of the negotiations that are not legally coherent, or that have not been based on proper impact assessment, in particular:

Art. 9(1) indent nine & Art.9(1a) on the interface between REACH and waste, as well as the lack of reference to Art. 10(2) & 10(3) of WFD in:

Art. 11(1) on selective demolition,

Art. 18.3 on mixed hazardous waste,

Art. 20 on separate collection of household hazardous waste and

Art. 22(1) on biowaste

In our view, the implementation of the said provisions is likely to prove so challenging in practice for businesses, the public administration and for citizens, that it will even be counterproductive as to the overall objective of promoting circular economy in a sustainable manner.

Furthermore, we are of the opinion that the full financial responsibility shall be borne by the EPR systems and we note that the 10% landfill target of municipal waste by 2035/2040 does not sufficiently take into account the different social conditions or population density and characteristics between MSs and leads inevitably to increased incineration, which is a sub-optimal outcome.

Moreover, we encourage the Commission to address in a systematic and coherent manner the specific characteristics of small remote islands as part of the implementing measures of the package and notably of the revised Landfill Directive as well as of Art. 10(1) to 10(3) and the aforementioned related provisions."

## STATEMENT BY FINLAND

**"Finland supports the aims and objectives as well as the overall compromise on the "Waste Package", which paves the way for increased recycling and an enhanced circular economy.**

**However, Finland wishes to reiterate its concern about the inconsistency of the overall recycling targets for packaging waste with respect to its material-specific targets** (Article 6, paragraph 1, point (f) and (h) of the Directive on Packaging and Packaging Waste).

More precisely, Finland considers that the reduction in material-specific targets were not sufficiently reflected in the overall recycling targets. Compared to the Commission's proposal, for example, the recycling target for wood packaging waste was reduced by 35 percentage points (from 60% to 25%) in 2025 and by 45 percentage points (from 75% to 30%) in 2030. Despite this, the overall target for 2025 remained the same (65%) as in the Commission's proposal, and the target for 2030 was decreased by only 5 percentage points (from 75% to 70%).

Finland also considers that the overall recycling targets for packaging waste do not sufficiently take into account the fact that Member States' ability to attain the targets depends significantly on the proportion of certain packaging materials that are used. In this regard, the final deal is particularly unfavourable to those Member States where the use of wood packaging is widespread and where the proportion of wood packaging waste of the total amount of packaging waste is significant.

For these Member States, the overall recycling targets can only be achieved in practice if the recycling rates for wood packaging waste can be increased to levels clearly above the material-specific targets. Even extremely efficient recycling of other packaging waste materials (i.e. much higher than their material-specific recycling targets) could not compensate for the dominant impact of the lower recycling rate for wood packaging. This is contradictory given that the recycling targets for wood packaging waste were deliberately set at a lower level due to the limited recycling potential.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the waste package, Finland regrets that the binding overall recycling targets for packaging waste treat Member States unequally according to the proportion of certain packaging materials used in relation to the total amount of all packaging materials."

## STATEMENTS BY GERMANY

### Separate collection

"1. Article 10(2) of the current Waste Framework Directive (WFD) stipulates that, to comply with the recovery requirement under Article 10(1), waste must be collected separately 'if technically, environmentally and economically practicable'. The amendment to Article 10(2) agreed on in the trilogue has removed this proviso and replaced it in the new Article 10(3) with a special derogation clause under which Member States may allow derogations from the separate collection requirement subject to certain conditions. This amendment to Article 10 of the Waste Framework Directive not only impacts direct obligations on producers and holders, it also affects Member States' obligation to ensure separate collection of certain wastes, achieve recycling quotas (Article 11 WFD) and collect bio-waste separately (Article 22 WFD).

Germany supports the objective pursued by the WFD of achieving a sustainable circular economy at both EU and national level. All those concerned should participate in efforts to achieve a circular economy; the circular economy therefore requires a sound legal basis. Germany would point out that, irrespective of the derogation clause in Article 10(3) of the WFD, both the Treaty on the Functioning of the European Union and German constitutional law stipulate that legally binding obligations such as, in particular, separate collection obligations may only be imposed on waste producers and holders if they are proportionate, i.e. suitable, necessary and appropriate with a view to improving recycling.

2. The same applies to the new ban on the incineration of separately collected waste pursuant to Article 10(3a) (new) of the WFD and the ban on landfilling such waste under the new point (f) of Article 5(3) of the Landfill Directive. These bans may only be imposed on waste producers and holders if they are proportionate. Furthermore, Article 13 of the WFD requires the management of such waste to be carried out without endangering human health and without harming the environment."

**Regarding the obligation to provide the ECHA with information about articles (Article 9(1)(i) and Article 9(2) of the Waste Framework Directive)**

"The provision inserted in the ninth indent of Article 9(1)(i) and in Article 9(2) during the final phase of the trilogue negotiations, which provides that articles which contain substances of very high concern within the meaning of the REACH Regulation are to be included in a database at the European Chemicals Agency ECHA, raises a number of detailed questions that need to be clarified so that Member States can draw up regulations which are in keeping with the goals of the provision. For example, clarification is required as to how to identify the articles concerned in such a way that they can be entered into a central database in an easily retrievable form. Additionally, common provisions need to be drawn up to deal with the issue of the multiple submissions of data for one and the same article which are to be expected in large numbers as a result of extending the obligations to all suppliers along the supply chain.

Germany considers it regrettable that this provision, which will demand a considerable effort from all parties, was included in the draft without the appropriate preparation in terms of content or the appropriate impact assessment required for such a complex issue. Germany is only able to agree in view of the overall compromise achieved in the trilogue procedure. Germany requests that the Commission, in consultation with the ECHA as the body responsible for maintaining the database, specify the precise details necessary to enable the ECHA and Member States to implement the provision in an appropriate manner while limiting the workload to the necessary minimum. Should the Commission be of the opinion that this requires supplementary amendments to Union law, the Commission is requested to submit corresponding draft provisions."

**Ad "A" item 4:**      **Waste package: Directive on packaging waste**  
*Adoption of the legislative act*

**DECLARATION BY THE COMMISSION ON A POLICY FRAMEWORK FOR THE CIRCULAR ECONOMY**

"The Commission is committed to ensuring full implementation of the EU action plan for the Circular Economy<sup>28</sup>. To keep track of progress towards the circular economy, the Commission has adopted a monitoring framework<sup>29</sup> building on the existing Resource Efficiency and Raw Materials Scoreboards. The Commission also draws attention to its ongoing work on a footprint indicator for products and organisations.

Actions undertaken under the EU action plan for the Circular Economy also contribute to fulfilling the Union's objectives on sustainable consumption and production, in the context of Sustainable Development Goal 12. This is the case, for example, of the strategy on plastics<sup>30</sup> or the recently amended proposal on the legal guarantee for consumer goods<sup>31</sup>.

As regards consistency between the Union's regulatory frameworks, the Commission has also recently adopted a Communication setting out options to address the interface between chemical, product and waste legislation<sup>32</sup>. In 2018, the Commission will also examine options and actions for a more coherent policy framework of the different strands of work on EU product policy in their contribution to the circular economy. The interactions between legislation and industry cooperation on the use of by-products and the preparation for re-use and recycling of waste will also be considered in the framework of these initiatives and their follow-up.

As regards eco-design, the Commission, in line with the Eco-design Working Plan for the years 2016-2019<sup>33</sup>, confirms its strong commitment to ensuring that eco-design makes a more significant contribution to the circular economy, for example by more systematically tackling material efficiency issues such as durability and recyclability."

**DECLARATION BY THE COMMISSION ON INITIATIVES ON THE COLLABORATIVE ECONOMY**

"In line with the Circular Economy Action Plan<sup>34</sup>, the Commission has launched a number of initiatives on the collaborative economy. As announced in its Communication on a European agenda for the collaborative economy<sup>35</sup> in June 2016, the Commission will continue to monitor the economic and regulatory developments of the collaborative economy, in order to encourage the development of new and innovative business models, while ensuring adequate consumer and social protection."

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28 COM(2015) 614 final  
29 COM(2018) 29 final  
30 COM (2018) 28 final  
31 COM(2017) 637 final  
32 COM (2018) 32 final  
33 COM(2016) 773 final  
34 COM(2015) 614 final  
35 COM(2016) 356 final

## **DECLARATION BY THE COMMISSION ON MICRO-PLASTICS**

"In the context of the recently adopted European Strategy for Plastics in the Circular Economy<sup>36</sup>, the Commission has presented an integrated approach to address concerns about micro-plastics, including micro-bead ingredients. It focuses on preventive actions and aims at reducing the release of micro-plastics from all main sources – whether from products in which they are intentionally added (such as personal care products and paints) or originating from the production or use of other products (such as oxo-plastics, tyres, plastic pellets, and textiles)."

## **DECLARATION BY THE COMMISSION ON THE REVIEW OF THE WASTE SHIPMENT REGULATION AND END-OF-WASTE MATERIALS**

"In the context of the planned review of Regulation (EU) No 1013/2006 on shipments of waste to be conducted by the end of 2020, the Commission will consider the feasibility of providing for further measures regarding shipments of end-of-waste materials where end-of-waste criteria have not been set at Union level according to Article 6, paragraph 2, of the Waste Framework Directive."

## **DECLARATION BY THE COMMISSION ON MEASURES TO ENSURE TREATMENT OF WASTE PRIOR TO LANDFILLING**

"In accordance with Article 6 (a) of Directive 1999/31/EC on the landfill of waste Member States shall take measures to ensure that only waste that has been subject to treatment is landfilled, while making sure that such measures do not compromise the achievement of the objectives of Directive 2008/98/EC on waste (Waste Framework Directive) as revised, notably with respect to the waste hierarchy, the separate collection of waste and the preparing for re-use and recycling targets as set out in that Directive.

Building on the exchange of views that took place during the Waste Framework Directive Experts' Group meeting held on 30 June 2017 and in the light of the ruling of the Court of Justice of the European Union in case C-323/13, in the coming months the Commission will step up its dialogue with Member States on the policy measures to be taken in this area."

## **DECLARATION BY THE COMMISSION ON THE PROCEDURE OF ADOPTION OF IMPLEMENTING ACTS**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission *may* adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

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<sup>36</sup> COM (2018) 28 final

## **DECLARATION BY THE COMMISSION ON THE AVAILABILITY OF DATA AND REPORTING OBLIGATIONS**

"In view of monitoring progress towards the new targets for municipal and packaging waste and in view of relevant review clauses, in particular to set targets for food waste prevention and for the recycling of waste oils, the Commission underlines the importance of the common understanding reached between the co-legislators that Member States will ensure that the reporting of data under Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste and 1999/31/EC on the landfill of waste as amended, will cover the year 2020."

### **STATEMENT BY POLAND**

#### **I. Frequency of reporting by Member States**

"Poland was disappointed to note the information concerning the increase in the frequency of reporting by Member States.

The draft directives increase the frequency of reporting by Member States from every two years to annually, which was never accepted in the mandate. The solutions put forward constitute a significant administrative burden for the Member States. Poland supported the mandate in May 2017 on condition that it took into account Poland's request regarding reporting frequency."

#### **II. Plausibility and feasibility of certain recycling targets**

"As regards the recycling of plastic packaging waste, Poland notes that the target of 55 % in 2030 may be technically difficult to achieve given the properties of certain materials."

### **STATEMENT BY GREECE**

"Greece supports the overall compromise achieved during the negotiations for the "Waste Package", acknowledging the painstaking efforts it took to reach an agreement, as well as the importance of the package within the Circular Economy Strategy.

However, a number of important provisions have been included in the course of the negotiations that are not legally coherent, or that have not been based on proper impact assessment, in particular:

Art. 9(1) indent nine & Art.9(1a) on the interface between REACH and waste, as well as the lack of reference to Art. 10(2) & 10(3) of WFD in:

Art. 11(1) on selective demolition,

Art. 18.3 on mixed hazardous waste,

Art. 20 on separate collection of household hazardous waste and

Art. 22(1) on biowaste.

In our view, the implementation of the said provisions is likely to prove so challenging in practice for businesses, the public administration and for citizens, that it will even be counterproductive as to the overall objective of promoting circular economy in a sustainable manner.

Furthermore, we are of the opinion that the full financial responsibility shall be borne by the EPR systems and we note that the 10% landfill target of municipal waste by 2035/2040 does not sufficiently take into account the different social conditions or population density and characteristics between MSs and leads inevitably to increased incineration, which is a sub-optimal outcome.

Moreover, we encourage the Commission to address in a systematic and coherent manner the specific characteristics of small remote islands as part of the implementing measures of the package and notably of the revised Landfill Directive as well as of Art. 10(1) to 10(3) and the aforementioned related provisions."

## **STATEMENT BY FINLAND**

**"Finland supports the aims and objectives as well as the overall compromise on the "Waste Package", which paves the way for increased recycling and an enhanced circular economy.**

**However, Finland wishes to reiterate its concern about the inconsistency of the overall recycling targets for packaging waste with respect to its material-specific targets** (Article 6, paragraph 1, point (f) and (h) of the Directive on Packaging and Packaging Waste).

More precisely, Finland considers that the reduction in material-specific targets were not sufficiently reflected in the overall recycling targets. Compared to the Commission's proposal, for example, the recycling target for wood packaging waste was reduced by 35 percentage points (from 60% to 25%) in 2025 and by 45 percentage points (from 75% to 30%) in 2030. Despite this, the overall target for 2025 remained the same (65%) as in the Commission's proposal, and the target for 2030 was decreased by only 5 percentage points (from 75% to 70%).

Finland also considers that the overall recycling targets for packaging waste do not sufficiently take into account the fact that Member States' ability to attain the targets depends significantly on the proportion of certain packaging materials that are used. In this regard, the final deal is particularly unfavourable to those Member States where the use of wood packaging is widespread and where the proportion of wood packaging waste of the total amount of packaging waste is significant.

For these Member States, the overall recycling targets can only be achieved in practice if the recycling rates for wood packaging waste can be increased to levels clearly above the material-specific targets. Even extremely efficient recycling of other packaging waste materials (i.e. much higher than their material-specific recycling targets) could not compensate for the dominant impact of the lower recycling rate for wood packaging. This is contradictory given that the recycling targets for wood packaging waste were deliberately set at a lower level due to the limited recycling potential.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the waste package, Finland regrets that the binding overall recycling targets for packaging waste treat Member States unequally according to the proportion of certain packaging materials used in relation to the total amount of all packaging materials."

## STATEMENTS BY GERMANY

### Separate collection

"1. Article 10(2) of the current Waste Framework Directive (WFD) stipulates that, to comply with the recovery requirement under Article 10(1), waste must be collected separately 'if technically, environmentally and economically practicable'. The amendment to Article 10(2) agreed on in the trilogue has removed this proviso and replaced it in the new Article 10(3) with a special derogation clause under which Member States may allow derogations from the separate collection requirement subject to certain conditions. This amendment to Article 10 of the Waste Framework Directive not only impacts direct obligations on producers and holders, it also affects Member States' obligation to ensure separate collection of certain wastes, achieve recycling quotas (Article 11 WFD) and collect bio-waste separately (Article 22 WFD).

Germany supports the objective pursued by the WFD of achieving a sustainable circular economy at both EU and national level. All those concerned should participate in efforts to achieve a circular economy; the circular economy therefore requires a sound legal basis. Germany would point out that, irrespective of the derogation clause in Article 10(3) of the WFD, both the Treaty on the Functioning of the European Union and German constitutional law stipulate that legally binding obligations such as, in particular, separate collection obligations may only be imposed on waste producers and holders if they are proportionate, i.e. suitable, necessary and appropriate with a view to improving recycling.

2. The same applies to the new ban on the incineration of separately collected waste pursuant to Article 10(3a) (new) of the WFD and the ban on landfilling such waste under the new point (f) of Article 5(3) of the Landfill Directive. These bans may only be imposed on waste producers and holders if they are proportionate. Furthermore, Article 13 of the WFD requires the management of such waste to be carried out without endangering human health and without harming the environment."

### Regarding the obligation to provide the ECHA with information about articles (Article 9(1)(i) and Article 9(2) of the Waste Framework Directive)

"The provision inserted in the ninth indent of Article 9(1)(i) and in Article 9(2) during the final phase of the trilogue negotiations, which provides that articles which contain substances of very high concern within the meaning of the REACH Regulation are to be included in a database at the European Chemicals Agency ECHA, raises a number of detailed questions that need to be clarified so that Member States can draw up regulations which are in keeping with the goals of the provision. For example, clarification is required as to how to identify the articles concerned in such a way that they can be entered into a central database in an easily retrievable form. Additionally, common provisions need to be drawn up to deal with the issue of the multiple submissions of data for one and the same article which are to be expected in large numbers as a result of extending the obligations to all suppliers along the supply chain.



Germany considers it regrettable that this provision, which will demand a considerable effort from all parties, was included in the draft without the appropriate preparation in terms of content or the appropriate impact assessment required for such a complex issue. Germany is only able to agree in view of the overall compromise achieved in the trilogue procedure. Germany requests that the Commission, in consultation with the ECHA as the body responsible for maintaining the database, specify the precise details necessary to enable the ECHA and Member States to implement the provision in an appropriate manner while limiting the workload to the necessary minimum. Should the Commission be of the opinion that this requires supplementary amendments to Union law, the Commission is requested to submit corresponding draft provisions."

**Ad "A" item 5:**        **Regulation on organic farming**  
                                 *Adoption of the legislative act*

**STATEMENTS BY THE COMMISSION**

**Commission statement on temporary experiments for organic varieties**

"The Commission acknowledges the need to establish conditions under which organic varieties suitable for organic production shall be developed.

For the purpose of establishing criteria for the description of the characteristics of 'organic varieties suitable for organic production', as well as defining the conditions under which 'organic varieties suitable for organic production' may be produced with a view to marketing, the Commission will organise at the latest 6 months after the date of application of the present Regulation a temporary experiment.

This temporary experiment will establish criteria for describing the distinctness, uniformity, stability, and, where applicable, the value for cultivation and use of organic varieties suitable for organic production and address other marketing conditions such as labelling and packaging. These conditions and criteria will take into account the specific needs and aims of organic agriculture such as enhancing genetic diversity, disease resistance and adaptation to soil and climate conditions. Yearly reports will be produced to monitor the progress of the temporary experiment.

In the framework of such an experiment, which shall have a term of seven years and foresee sufficient quantities, Member States may be released from certain obligations laid down in Directive 66/401/EEC, Directive 66/402/EEC, Directive 68/193/EEC, Directive 2002/53/EC, Directive 2002/54/EC, Directive 2002/55/EEC, Directive 2002/56/EEC, Directive 2002/57/EEC, Directive 2008/72/EEC and Directive 2008/90/CE.

The Commission will assess the result of this experiment with a view to propose the amendment of the requirements of the horizontal legislation on the marketing of seeds and other plant reproductive materials to the characteristics of the 'organic varieties suitable for organic production'."

### **Commission statement on Article 55**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

#### **STATEMENT BY FRANCE**

**"France had hoped for a more ambitious approach to the use of adjuvants, synergists and co-formulants in organic production. It can accept the final text bearing in mind that it will still be possible to prohibit the use of certain substances at national level if they fail to comply with the principles and objectives of organic production.**

**France would ask the Commission to monitor the implementation of Article 9(3) and its impact on organic production. If it becomes evident that the implementation of the second subparagraph of Article 9(3) is likely to affect the integrity of the organic sector, the Commission will need to propose to the Council and the European Parliament an appropriate amendment to the Regulation.**

Finally, France would point out that it reaffirms its commitment to ensuring that implementation of the Regulation at European and national level complies fully with its objectives, in particular as regards the robustness of the control system. It would also recall its statements entered in the minutes of the meetings of the SCA on 27 February and 29 May 2017."

#### **STATEMENT BY SWEDEN**

"Sweden supports the adoption of the new Regulation on organic production and labelling of organic products. The Regulation creates a long-term framework for the organic sector. However, Sweden regrets that parts of the Regulation will hinder the expansion of certain forms of production, for example the development of some greenhouse companies which will not be able to increase their acreage. The Regulation will also, in certain cases, hinder innovations, which could limit the long-term development of the sector. Sweden will continue to contribute to the positive development of the organic farming sector, and is looking forward to the Commission's report on the use of demarcated beds in organic production. Scientific facts which take into consideration Member States' geographical and climatic differences should constitute the basis of the rules for greenhouse companies."

## **STATEMENT BY THE CZECH REPUBLIC**

"The Czech Republic is concerned about the form of the final proposal for the organic Regulation. We are disappointed that the original intentions of the reform, namely to simplify and harmonise rules for organic operators all across the EU, were not fulfilled. Moreover, we are afraid that the inconsistencies in the resulting text may lead to the organic label losing credibility with consumers.

Furthermore, the Czech Republic deeply regrets the decision to defer a resolution of the question of the presence of the residues of pesticides in organic products, which was considered to be one of the essential issues in the current reform. This sends consumers the worrying message that their expectations that organic products should be free of pesticide residues may not necessarily be fulfilled.

We consider the agreement to be a backward step, undermining the further development of the sector."

## **STATEMENT BY LITHUANIA**

"Lithuania notes that the proposal still includes one inappropriate clause, which fails to meet consumers' expectations by providing for the postponement of a decision on the limit on non-authorized substances in organic production until a future date. The proposal as it stands would disappoint those consumers across the EU who opt for organic products owing to the specific nature of their production, i.e. as 'clean' products without pesticides.

We also note the proposal's failure to ensure EU-wide harmonisation of the requirements. Seeking an agreement at any cost, the proposal contains a number of derogations that are open for individual adoption by Member States, as well as some derogations that are provided only for specific Member States – this will lead to uneven competitive conditions on the market.

For the abovementioned reasons, Lithuania opposes the text of the proposal on organic production and labelling of organic products."

**Ad "A" item 6:**            **Regulation on type approval**  
   *Adoption of the legislative act*

## **DECLARATIONS BY THE EUROPEAN COMMISSION**

### **The link between the different EU and national databases (Article 9a)**

"The Commission shares the views of the legislator that interconnection between the different databases used for type-approval and market surveillance should be ensured. As some databases are managed individually by Member States, successful interconnection will depend on the full cooperation of Member States."

## **The New Deal for Consumers**

"The Commission is concerned by mass harm situations affecting interests of consumers, as illustrated by the revelations in September 2015 about car manufacturers circumventing emissions standards for certain air pollutants, and sees the limits of existing national procedural means to secure appropriate consumer redress in such situations. The Commission has adopted a proposal on representative actions for the protection of the collective interests of consumers [COM(2018)184] as part of the New Deal for Consumers package on 11 April 2018, with the aim to empower qualified entities to launch representative actions on behalf of consumers and to introduce stronger sanctioning powers for Member States' consumer authorities. With this proposal, once adopted, victims of unfair commercial practices, such as misleading advertising by car manufacturers not in compliance with the Union regulatory framework for type approval of vehicles or environmental legislation, will be in a position to obtain remedies collectively."

## **The obligatory market checks on the market by the Commission (Article 9)**

"The Commission welcomes that the markets checks to be carried out by the Commission were confirmed by the legislator. It is now essential that the legislator also ensures that this activity is properly financed in particular in the context of the Commission proposal for the next Multiannual Financial Framework".

## **The status quo for end of series (Article 47)**

"The Commission regrets that for end-of series, instead of an EU procedure, the future legislation will maintain the status quo of a national procedure which is burdensome for importers, vehicles manufacturers, national and regional authorities. The current procedure also has no value added for safety and environment and creates problems for the internal market of used vehicles."

## **The rules on the committee work**

"For Committee rules; the Commission underlines that it is contrary to the letter and to the spirit of regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

## **The deletion of the delegation to the Commission to regulate CO2 in-use testing defeat device (Article 91)**

"The Commission regrets that the initial Commission proposal to regulate in-service-conformity of CO<sub>2</sub> emissions through implementing legislation was not supported by the co-legislators. This will further delay the set-up of an in-service-conformity assessment procedure which is a core element for ensuring that the CO<sub>2</sub> emission and fuel consumption values attributed to individual vehicles are reliable. The Commission has included a similar mandate in its proposal for new Light Duty Vehicle CO<sub>2</sub> emission standards adopted on 8 November 2017 and calls on the co-legislators to support it."

## **STATEMENT BY THE CZECH REPUBLIC AND LATVIA**

"The Czech Republic and Latvia fully agree with the need for revision of the type-approval framework for motor vehicles, systems, components and separate technical units intended for such vehicles, with the view to ensure high level of safety and protection of health and the environment.

The Czech Republic and Latvia support the aims and principles of the new Regulation such as efficient market surveillance, clear and harmonised recall and safeguard procedures, proper functioning of technical services, closer coordination between national authorities and uniform application of type-approval rules. Efficient market surveillance system should be, first of all, based on a principle of risk assessment.

The Czech Republic and Latvia remain critical towards claimed added value of the additional oversight of the Commission over national type-approval authorities as agreed in the text of Article 9a resulting from the trialogues with the European Parliament. The assessment of type-approval authorities by the Commission cannot be considered as necessary and proportionate for achieving the aims of the Regulation. On the contrary, besides adding unnecessary bureaucracy into the system, such a mechanism undermines the very principles of EU type-approval system. The Article 9a interferes with the activities of national authorities that are in competence of Member States. By not respecting the competencies of national type-approval authorities confidence and respect of the EU type-approval system as such is being undermined. In addition such assessment will duplicate the peer-evaluation system and increase the already significant administrative burden for authorities.

Furthermore, the Czech Republic and Latvia are of the opinion that the text of Article 90 is of utmost importance as it sets EU fines mechanism that results in direct impact on manufacturers. Therefore, procedure, methods for the calculation and collection of administrative fines should be adopted by means of an implementing act."

## **STATEMENT BY GERMANY**

"The Federal Government would like to thank all stakeholders for this draft regulation on the type approval and market surveillance of motor vehicles and their trailers. Germany supports the revision of the Framework Directive on the type approval and market surveillance of motor vehicles and of systems, components and separate technical units with the objective of ensuring a high level of road safety and the protection of health and the environment. This applies in particular to the introduction of mandatory market surveillance, Member States' obligation to provide information and the stricter monitoring of technical services that carry out vehicle testing in the context of type approvals.

However, we are of the opinion that the draft regulation does not go far enough. The objective is that rules for type approvals and market surveillance be improved and that trust in European type approval legislation be restored. During the discussions, Germany submitted numerous proposals that go beyond the current proposal and would have contributed to its unambiguity, clarity and applicability. We regret that some of Germany's basic demands have not been included in the present draft regulation. This applies in particular to the following aspects:

- The specification of rules for type approval and market surveillance with a clearly defined procedure for non-compliant products.
- The Federal Government's proposal to establish a clearing house that, as an expert body, prepares a decision within clearly defined deadlines in the event of disputes.
- The introduction of a rotation system for technical services for the purposes of improving quality. In accordance with the 'four-eyes principle', a second technical service should carry out random checks and thereby enhance the quality of type approvals.
- The replacement of rules regarding end-of-series vehicles with certificates of conformity (CoC) for first registrations that, once issued, are valid for an unlimited period of time.
- Germany also continues to champion the administrative monitoring of CO<sub>2</sub> emissions and the monitoring of fuel consumption in real-world driving, as they have been deleted from the present proposal. We consider it important that this measure be implemented promptly."

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