



Mining Waste Directive

Conciliation Delegation briefing Re. Priority 2nd Reading amendments



10 October 2005

Introduction

In advance of your Conciliation Committee discussions on Wednesday 12th October, WWF and EEB summarise our recommendations for priority 2nd Reading amendments to the Directive on the management of waste from the extractive industries (“Mining Waste Directive”) to defend in negotiations with Council.

In our view, this Directive will be a substantially weakened legislative instrument, since Parliament's Plenary vote failed to pass key amendments to strengthen its provisions. This is particularly true of the scope of the Directive.

We, therefore, urge Members to defend strongly the few valuable amendments that remain “on the table”, and ensure that EU regulation on extractive waste management is at least adequate with regards the most dangerous waste types.

Costs of implementation: The Commission figures given to members of the Environment Committee during the “Mining Waste Directive” 2nd Reading debate clearly show there will be no significantly increased costs to the extractive industry from applying its provisions as proposed. For example, it would cost an additional 1 Euro per tonne of metal from deep metal mining, or an additional one Euro cent (0.01) per tonne of aggregate produced. Further, note that the economic impact assessment of the Directive was estimated at the time of its development, when provisions were more ambitious than those in the final proposal. Many of the Parliament's amendments are identical or equivalent to that level of ambition, which would hence not lead to much higher waste management spending by the industry in general.

WWF & EEB recommendations for priority 2nd Reading amendments

1. Top priority amendments

- **Ams 42, 43 & 44 → *Stopping pollution from existing extractive waste facilities from the entry into force of the Directive.*** The Directive provides for a very generous transitional period for existing (operational) extractive waste facilities to meet its new obligations. However, ongoing pollution from existing facilities must be stopped by the Directive's entry into force in order to prevent a worsening of the situation during this transitional period. Further, Council's life-long exemptions for certain existing facilities from key provisions of the Directive must be reversed, to avoid a rush of extractive waste facility closures without adequate safeguards (particularly for Romania and Bulgaria).
- **Ams 6 & 35 → *No dumping of extractive waste into rivers, lakes, or coastal waters.*** Provisions are needed to ensure that tighter regulation focussed on the extractive waste facilities will NOT lead to dumping of the waste directly into inland or coastal waters to avoid the Directive's (new) obligations.
- **Am 36 → *Reducing water pollution from excavation voids.*** Where these large voids are allowed to flood after closure, without controls, the surrounding water becomes polluted with minerals/metals from the fractured rock and from extractive waste remaining in the voids. Research shows that the resulting levels of pollution in water can be far higher than from the actual extractive waste facilities, and so more damaging to freshwater ecosystems and soil.

2. Other important amendments

- **Ams 20, 29, 30 & 31 →** To ensure an adequate closure and rehabilitation of extractive waste facilities (after closure), in order to reduce future pollution and other problems for people and the environment.
- **Am 18 →** Requiring certain monitoring, control and management measures on closed extractive waste facilities. These are cost-effective to run after the initial set-up investment and vital to reduce future pollution and other problems for people and the environment. Thus, no matter how careful operators are during the operational phase, the real impacts of a extractive waste facility extend many times longer after

closure than in the operational life, reaching – depending on the mineral - time scales of thousands of years.

- **Ams 19, 32, 33 & 34** → To ensure that water protection standards governing discharges from extractive waste facilities are those already enshrined in EU law.
- **Ams 7, 38 & 39** → To ensure that the financial guarantee for (the establishment of) extractive waste facilities would allow for the rehabilitation of **all** the land affected during their operation.
- **Ams 4, 17, 21 & 23** → To ensure that the plans regulating the management of extractive waste facilities include “waste prevention” measures, i.e. aiming at limiting the volumes and “dangerousness” of the waste produced. Otherwise, they would be limited to “end of pipe” solutions, i.e. only managing the waste once is already produced.
- **Am 27** → To ensure that the location of extractive waste facilities respects EU nature conservation laws.
- **Am 25** → To develop an EU overview of new extractive waste facilities. This is important for efficient risk assessment, the implementation of the monitoring activities laid down in the Directive, and general land-use planning under the terms of other EU environmental laws. Only by knowing the location and profile of the individual facilities, it will be possible to improve their management and prevent adverse effects on people and the environment.
- **Am 45** → To shorten the period for transposition of the Directive.
- **Ams 9 / 14 / 22** → Recommending that EU-Accession countries (e.g. Romania) take account of this Directive during the pre-accession phase in order to be able to implement it upon the date of accession / Improving the definition of “dam” / Including prevention of damage to “property” in the objectives of emergency plans for extractive waste facilities; respectively.

Background Re. Implications of Parliament 2nd Reading Plenary vote for the scope of the Directive

Parliament 2nd Reading Plenary vote failed to strengthen Council’s text in relation to the scope of the Directive. Both Council and Parliament decisions mean that – under normal conditions - **most** of the extractive waste currently produced in the EU¹ would not be adequately covered by the Directive. Thus, extractive waste that is not perceived as poisonous/dangerous (e.g. so-called “inert” waste from coal and aggregate production) **is not covered by several key relevant provisions** (e.g. notification of stability problems on waste storage facilities). However, this waste still poses a risk of serious physical impact on people and the environment, which has been under-estimated.

According to the current Council text – under normal conditions - only **approximately 1%** of the extractive waste produced in the EU would be covered by **all** the Directive’s provisions. However, the level of protection provided for this “hazardous” waste, which is actually very dangerous as shown by extractive waste spills at Aznalcóllar (Spain) in 1998 and Baia Mare (Romania) in 2000, **is not sufficient either**. Fortunately, many of Parliament’s amendments are designed to improve the Council text’s provisions governing the management of such waste.

“Under normal conditions” above means that the extractive waste is not deposited in facilities that have been classified as “Category A”. These are facilities that present a very clear risk of danger and damage to people and the environment. For these facilities, therefore, all the Directive’s provisions will apply irrespective of the type of waste deposited. Unfortunately, both Council and Parliament have changed the criteria for classification of extractive waste facilities, making it more difficult for a facility that presents such clear risk to be classified as “Category A”. **This is why it is now important to defend strongly the few valuable amendments that remain “on the table”.**

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¹ Extractive waste is the largest waste stream in the EU (about 28%). Most of this is of the so-called “inert” type, which is not perceived as poisonous/dangerous. This waste is physically hazardous even if not directly poisonous/toxic. It can smother and kill people as well as damage freshwater fauna and flora. For example, 144 people, mainly children, died at Aberfan (Wales, UK) in 1966 as a result of the collapse of a heap of inert waste from a coal mine. Another 268 died in Stava (Italy) in a similar accident