# Eurits position paper – Council compromise text
# June 2007

## Background on Eurits

Eurits, the European Union for the Responsible Incineration and Treatment of Special Waste, was established in 1994. It currently has 20 member companies across the EU and represents over 90% of the specialist high-temperature incineration capacity in Europe. As a result of strict European legislation, the sector operates to the highest environmental standards, based on the precautionary principle, to protect the environment against known and, as yet, unproven risks.

## Recovery definition

The latest proposal for the definition of recovery is an interesting idea: "*any operation provided that its principal result is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or in it being prepared to fulfil that function, in the plant or in the wider economy*", though there is no reference to whether the recovery definition is environmentally beneficial.

Eurits would like to give some scenarios to demonstrate possible applications of this definition:

### *Scenarios*

1. A hazardous waste incinerator substitutes fossil fuel with a high calorific value (CV) waste (eg solvents) in order to obtain the necessary process conditions to perform a public service ie to destroy low calorific value hazardous wastes – presumably the use of the high CV waste would be classified as recovery and the thermal treatment of the low CV waste would be considered as disposal? It is absolutely clear that without the high CV waste fossil fuels would be required.

2. A waste management facility takes in a waste and recovers only 10% of the waste with the remainder ending up in a landfill – should this operation be classified as recovery? What if the material recovered were particularly valuable eg silver or gold but only present in relatively small concentrations?

The stakes are high for business when considering whether a particular operation should be considered as recovery or disposal, particularly in the waste sector where the classification of the operation has a major impact on the ability to ship waste across national boundaries.

## End of waste (Article 3c)

Eurits is very concerned about paragraph 2 of the end of waste article (3c) which states that: "*Where criteria have not been set at Community level under the procedure set out in paragraph 1, Member States may decide case by case whether a certain waste has ceased to be a waste taking into account the applicable case law*".

This would have the practical effect that a Member State could unilaterally declare a waste to have reached the end-of-waste status and declassify that waste. This will inevitably lead to a wide variation in the application of these powers by the different Member States. What will happen if one Member States declassifies a waste, which is then shipped to another country which refuses to accept that that the waste should have been declassified? For example, a particular pollutant may not be considered important for the local environment in one Member State but once shipped across a border that situation may no longer be correct.

**Eurits fears that there will be widespread misuse of this power and asks that the Council remove this clause.**

**Mixing and dilution (Article 16)**

Eurits welcomes the Council's helpful clarification of including a ban on dilution in the article on mixing, though there is still no definition of dilution. We remain concerned that the derogations that were drafted to apply to the mixing ban will also apply to the ban on dilution. For Eurits the situation is clear – mixing is a normal waste management operation that must be carried out in a controlled manner by a body with the appropriate permit, whereas dilution is an illegal operation with the aim of circumventing legislation.

Eurits proposes that the article should be amended to include the sentence: "There will be no derogations from the ban on dilution".

**Permits (Article 19) and permitting exemptions (Article 22)**

Eurits believes that all facilities treating waste should be subject to the same type of permits. In particular, for hazardous waste treatment facilities there should be no exemption from permitting regardless of the operation classification (recovery or disposal). If exemptions from permitting are allowed for hazardous waste treatment facilities, that would lead to lower environmental standards and a reduction in control of hazardous waste. **The hazards and risks are the same whether the waste goes to a recovery facility or a disposal facility. It is crucial that all facilities are licensed in a harmonised way to the same high environmental standards.**

Permits are a guarantee for a transparent and level playing field: having no permits means no transparency and creates the possibility of low-quality solutions being adopted. The acquisition of a permit is not a problem in the timing of a project or financing of an investment when the procedure is adapted to the environmental risks of a waste treatment solution. Europe needs guidelines for efficient permitting more than exemptions.

Eurits asks that the Council considers as a minimum that all facilities treating hazardous waste should have a permit, this would require an amendment to Article 22, clause (b) as follows:

"(b) recovery of **non-hazardous** waste"

As the text is currently drafted any recovery operation treating hazardous waste may be granted an exemption from having a permit – our proposed amendment would prevent this from being the case.

**Eurits**
**June 2007**