



YMPÄRISTÖMINISTERIÖ
MILJÖMINISTERIET
MINISTRY OF THE ENVIRONMENT

Excavated Soil and Waste Directive

Anna-Maija Pajukallio, Ministry of the
Environment, Finland

26.3.2009 Dublin

• New Waste Directive (WFD) & Soil

- New Waste directive (2008/98/EC)
 - national implementation before end of 2010
- Article 2 (*Scope*)
 - Para 1(b): Land (in situ) including unexcavated contaminated soil and buildings permanently connected with land are excluded form the scope of WFD
 - That's fine.
 - Para 1(c): Uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purpose of construction in its natural state on the site which it was excavated is also excluded from the scope.
 - This is fine too.
 - BUT what if it is reused somewhere else?

-
-
- Excavated uncontaminated soil used elsewhere
 - It is in principal **waste**
 - Permit or simplified notification is needed for the reuse
 - Or not – if **no waste status**
 - Waste or non-waste status has to be defined

-
-
- Permit

- The permit requirement (article 23)
 - Establishment or undertaking intending to carry out waste treatment (includes recovery) shall obtain a permit from the competent authority
- Rather heavy instrument for clean soil!
- "professional" reuse – large quantities => permit
- "private" reuse - small quantities => case by case – assessment, no permit requirement?
 - local general provisions instead?

-
-
- # Notification

- The **exemption for permit requirement** for establishments or undertakings that carry out waste recovery (article 24 - 26)
 - if the authorities have adopted **general rules** for each type of activity laying down the types and quantities of waste that may be covered and the method of treatment to be used
 - The establishments and undertakings shall be **registered** with the competent authorities
 - MSs shall **inform** Commission
- Could this be an useful instrument for contaminated soil /slightly contaminated soil or treated soil used in certain specific structures?
 - Rather heavy for clean soil?



● Waste status

- According to the recital 11 the waste status of uncontaminated excavated soils which are used on sites other than the one from which they were excavated should be considered according with the **definition of waste** and the **provisions on by-products** or on **the end of waste status** under WFD.

-
-
- ## Definition of waste

- 'waste' means any substances or object which the holder discards or intends or is required to discard
- This definition is very general – has lots of legal uncertainty to it
 - case by case assessment - can not be used categorically to one waste stream?
 - is now somewhat clarified by
 - By-product and End of Waste -concept

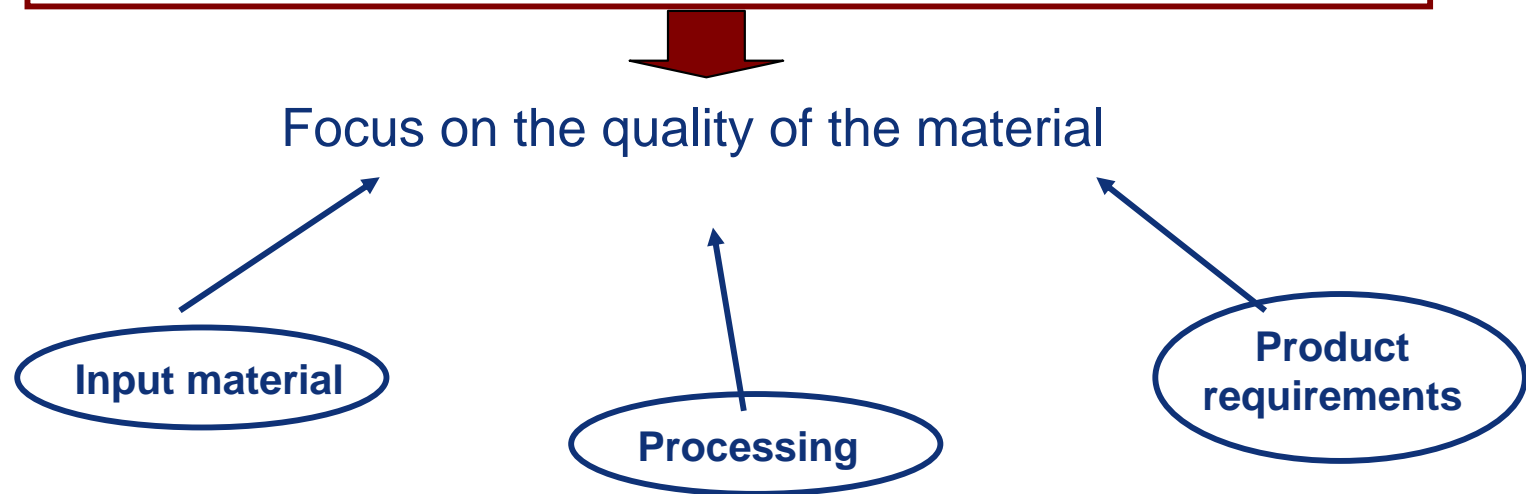
-
-
- End of Waste Criteria (Art 6)

- Certain specified waste shall cease to be waste when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions:
 - (a) the substance or object is commonly used for specific purposes;
 - (b) **a market or demand exists for such a substance or object;**
 - (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and
 - (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.
- The criteria shall include limit values for pollutants where necessary and shall take into account any possible adverse environmental effects of the substance or object.

-
-
- End of waste project (JRC) - methodology

- The concept of end of waste

End of waste criteria are all the requirements that have to be fulfilled by a material derived from waste, ensuring that the quality of the material is such that its use is not detrimental for human health or the environment.



-
-
- **Concept of end of waste - JRC**

- **Waste stream analysis**

- Existing data, material flows, uses, processes applied, relevant legislation, existing quality assurance schemes, standards, assessment of market

- **Set of criteria**

- Input material
- Processes and techniques
- Product quality
- Potential applications
- Quality control procedures

- **Impact assessment**

- Environmental, health, economic, market, legislative impacts
- ...

-
-
- EoW for soil

- Soil is briefly mentioned in JRC-report, pilot study "aggregates" in connection with construction and demolition wastes
 - Soil, rocks and vegetation: waste arising from land levelling, civil works an/or general foundations
- EoW-criteria may be also defined on the quality of the source waste (e.g. source selection – clean sites)
 - Clean soil separated at source / excavated at certain sites ... clean enough?
 - Leaching criteria?
- <http://susproc.jrc.ec.europa.eu/activities/waste/documents/Endofwastecriteriafinal.pdf>

-
-
- National or EU-harmonized?

- Soil is not (as such) listed as a priority material for harmonized criteria
- Where criteria has not been set at Community level, MSs may decide case by case whether certain waste has ceased to be waste taking into account the applicable case law
 - Decisions shall be notified to Commission
- National criteria can be developed
 - This has to be notified
 - Potential choice for Finland
 - But there is a problem with market criteria
 - plenty of inexpensive primary aggregates

-
-
- ## By-products (Art 5)

1. A substance or object, resulting from a production process, the primary aim of which is not the production of that item, may be regarded as not being waste but as being a by-product only if the following conditions are met:

(a) further use of the substance or object is certain;

(b) the substance or object can be used directly without any further processing other than normal industrial practice;

(c) the substance or object is produced as **an integral part of a production process**; and

(d) further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

2. On the basis of the conditions laid down in paragraph 1, measures may be adopted to determine the criteria to be met for specific substances or objects to be regarded as a by-product and not as waste referred to in point (1) of Article 3.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance Comitology

=> This criteria suites better (only?) to industrial by-byproducts

-
-
- Finland today, but not 2010?

- **Environmental Protection Decree, section 4**
Activities not subject to environmental permit

...

~~2) the recovery or disposal, on the site of extraction or construction or some other site of construction, of non-hazardous soil or rock waste deriving from soil or rock extraction, construction or civil engineering operations, if the waste is recovered or disposed of according to an approved plan or permit which meets the relevant requirements of the Waste Act (1072/1993);~~

...

-
-
- Questions?

- How do you think WFD in connection to excavated uncontaminated soil will be implemented in your country?
 - Will there be changes for current practices?
- Is there a danger that this will lead to unwanted
 - harmonization of uncontaminated soil?
 - bureaucracy?