



Brussels, 21.01.10

Subject: Application of Council Directive 85/337/EEC of 27 June 1985 as amended on the assessment of the effects of certain public and private projects on the environment to the rehabilitation of landfills

Council Directive 85/337/EEC¹ as amended on the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or the EIA Directive), applies to installations for the disposal of waste. Under this Directive, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location, must be made subject to an assessment of their environmental effects prior to development consent.

Under the Directive, an EIA is mandatory for waste disposal installations for the landfill of hazardous waste (so-called Annex I projects).

For all other landfills, Member States authorities must determine, in a procedure called “screening”, if projects are likely to have significant effects, taking into account criteria in the Directive (so-called Annex II projects). The screening takes places either on a case-by-case basis or through thresholds or criteria (in both cases, the criteria set out in Annex III of the Directive should be taken into account). If it appears that the projects are likely to have significant effects, an EIA is necessary; otherwise, no further steps are required. In any case, Member States have to ensure that the screening determination by the competent authorities is made available to the public.

The European Commission is of the opinion that the rehabilitation of landfills has in certain cases significant effects on the environment, (for example through the construction of physical installations, the generation of leachates or the production of methane and other gases). These effects should normally be included in the EIA report prepared as part of the original authorisation of the landfill. If the EIA Directive was not applicable at that time, or if an EIA was not considered necessary, then either a screening or full EIA procedure should be carried out before the rehabilitation takes place. These procedures could be part of, or be combined with, the on-site inspection and reporting foreseen under Article 13 of Council Directive on Landfill 1999/31/EC².

On the basis of the above, the Commission would like to draw the attention of Member States to ensure conformity of ongoing projects for the rehabilitation of landfills with the EIA Directive.

¹ OJ L 175, 5.7.1985, p.40; OJ L 73, 14.3.1997, p.5; OJ L 156, 25.6.2003, p.17; OJ L 140, 5.6.2009, p.114.

² OJ L 182, 16.07.99, p.1.