

**The Revision of the Waste Framework Directive**  
**Eurofer Position about By-Products**

- Eurofer would like to **ensure the legal certainty of the term by-products** by including a definition in the Waste Framework Directive
- Eurofer shares the view of European Court of Justice that **industrial by-products are not waste** and this should be clarified in the Waste Framework Directive
- Eurofer would like to stress the importance of **distinguishing between secondary raw materials** (non waste) that are extracted from waste **and by-products** that were never waste

The European Steel Industry as represented by Eurofer welcomes the Commissions initiative to revise the Waste Framework Directive since the current directive is out of date and in many cases hampers the use of valuable resource conserving materials since they are considered to be waste.

In this context the Commission has raised the question if it would be useful to clarify the distinction between non waste by-products and waste. Today the term is used by different parties but it does not have a legal status and therefore confuses the situation of the waste/non-waste issue even more. **In our opinion, a by-product is any substance, object or material that is produced continuously in a process and, in contrasts to waste as defined in Council Directive 91/156/EEC amending Directive 75/442/EEC, is intentionally managed and controlled to achieve specific properties in order to be fit for use but is not the main objective of the production line.**

Eurofer shares the view of the European Court of Justice (C-9/00 and C-235/02) that **industrial by-products are not waste** and this should be clarified in the Waste Framework Directive. Further Eurofer would like to stress the importance of **distinguishing between secondary raw materials that are extracted from waste and by-products that were never waste.**

Although the use of guidelines for by-products via a basic provision in the Waste Framework Directive might be a good way to clarify this issue, **Eurofer supports the introduction of a definition of by-product in the same directive** to get more legal certainty and to ensure a level playing field in Europe.

***Eurofer would like to propose the following definition for by-products:***

*A by-product is a substance or a material which is generated continuously in either a parallel or in a subsequent route to the main production process and whose chemical and physical characteristics are intentionally managed and controlled as the result of voluntary operations and/or treatments prior to or during its production or in a subsequent process in order to achieve specific properties and to fulfil market requirements for its use;*

- directly by the company in a subsequent process; or*
- by an external down-stream user*

Euroslag, The European Association representing metallurgical slags producers and processors, supports this approach (letter sent to the EU Commission on 18 March 2005, putting blast furnace slag forward as an example).

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