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**NOTE**

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from:	General Secretariat
to	Delegations
Subject:	Directive 2008/98/EC on waste: - Importance of climate aspects in the application of the energy efficiency formula to waste energy plants and to plants in the EU outermost regions = Information from the Portuguese delegation

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Delegations will find attached an information note from the Portuguese delegation on the above topic, to be dealt with under "other business" at the Council meeting (Environment) on 20 December 2010.

**Directive 2008/98/EC on waste:  
Importance of climate aspects in the application of the energy efficiency formula to waste  
energy plants and to plants in the EU outermost regions**

**- Information from the Portuguese delegation -**

According to the Waste Framework Directive (WFD) - Directive 2008/98/CE, municipal solid waste incineration may be classified as a recovery operation or as a disposal operation, depending on the result obtained through the application of a formula, set out in Annex II (first footnote) of the Directive, which is intended to assess the energy efficiency of the plant where the operation takes place.

In order to develop a methodology for a common application of the formula throughout the EU, the Commission created a working group with Member States and Stakeholders with the purpose of drafting a European technical guidance document for the application of the formula. This working group has been active since June 2009 and the final version of the Guide is expected shortly.

Nevertheless, although very important for the correct application of the energy efficiency formula to waste to energy facilities, the Guide is insufficient to establish a level playing field in the classification of this type of facility in EU. Two relevant issues were deliberately left out of the guide: the correction of the energy efficiency depending on climate conditions at the location of the plant, and the application of the formula to plants located in the outermost regions of the EU.

During the preparation of the Guide, in the working group, these issues were considered by most delegations as very relevant, but were left out of the Guide because it has been assumed that they were of a different legal nature, and would require the comitology procedure. Nevertheless, it was considered that they should be addressed immediately after the drafting of the Guide. In fact, aspects such as the size of the plant and the climate conditions in which it operates have a major impact on the result obtained through the application of the formula. The Waste Framework Directive recognises this fact, and in its Article 38<sup>1</sup> clearly envisages the possibility of taking those aspect into consideration in the application of the formula to waste incineration facilities.

### ***1- The impact of climate conditions on the energy efficiency of a waste to energy plant***

Climate has a marked influence on the value of R1 for two main reasons:

- a) in warmer climates the net efficiency of the thermodynamic cycle is lower, because, on average, the cold source is warmer than in cold climates and;
- b) in warmer climates it is not possible to find a suitable market for the excess heat produced in the plant and, consequently, this heat may not included in the value of the produced energy in the calculation of R1.

Both aspects are framework conditions (technical and market), which are independent of the intrinsic quality of the plants and its management, but have a dramatic effect, penalising the R1 factor.

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<sup>1</sup> Art. 38(1) of the WFD: If necessary, the application of the formula for incineration facilities referred to in Annex II, R1, shall be specified. Local climatic conditions may be taken into account, such as the severity of the cold and the need for heating insofar as they influence the amounts of energy that can technically be used or produced in the form of electricity, heating, cooling or processing steam. Local conditions of the outermost regions as recognised in the fourth subparagraph of Article 299(2) of the Treaty and of the territories mentioned in Article 25 of the 1985 Act of Accession may also be taken into account. This measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 39(2).

## **2- *The application of the energy efficiency formula to plants in the EU outermost regions***

In outermost regions, namely in islands, the plant size is determined by the availability of waste, which is often below the technical optimum to achieve maximum energy efficiency from a given technology. This size effect has a dramatic effect on R1. Furthermore, warm outermost regions suffer both effects: a climate effect, as mentioned in “1”, and a size effect, as referred to in “2”.

Consequently Portugal urges the Commission to start the necessary procedures in order to address climate issues in the application of the energy efficiency formula of the WFD to waste energy plants and to plants in the EU outermost regions.

