

The application of
the EC Definition
of “Waste” in
Brownfield
Development

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Overview

- The definition and its importance
- Waste law issues in brownfield development
- The Van de Walle (Texaco) case
- The ECJ “burden” principle

The definition and its importance

- Waste Framework Directive 75/442/EEC (as amended by 91/156/EEC)
- Waste = “Any substance or object ... which the holder [producer or person in possession of it] discards or intends or is required to discard”
- Waste must be recovered or disposed of safely and without environmental harm, under a waste permit or exemption
- Abandonment, dumping and uncontrolled disposal of waste is prohibited
- Additional controls on “hazardous waste”, landfill of waste, IPPC and transboundary movements of waste

Van de Walle

- Escape of hydrocarbons from Texaco petrol station
- ECJ - “involuntarily discarded” so (hazardous) waste
 - contaminated soil also waste
 - obligation to recover or dispose of it
- Implications?

“Burden principle”

- Arco Chemie, Palin Granit, Avesta Polarit cases
- Material which is “certain” to be used on-site without processing is not waste
- Implications?

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