



Brussels, 6 April 2020

Feedback on the Inception impact assessment of Waste Shipment Regulation (WSR)

On behalf of Zero Waste Europe (ZWE) and the European Environmental Bureau (EEB), we welcome the inception impact assessment (IIA) of the WSR stressing the intention to stop exporting waste outside the EU and revisit existing rules. According to the IIA, *“International trade in waste has increased considerably. In 2016, four times more waste were traded across international borders than in 1992 and this waste had a value of around 100 billion euro. In 2016, export of waste from the EU to third countries outside the EU amounted to around 40 million tonnes, around 20% of the global export of waste. At the same time, approximately 13 million tonnes of waste were imported into the EU.”*

The Circular economy set as a priority for the European Union is about designing waste out of the system. The increase of traded waste is certainly in contradiction with that objective.

Additionally, it is irresponsible to delegate our waste management to outside EU countries, notably as there are strong evidences that equivalent standards for environmental sound management are not complied with¹. Additionally, for receiving countries in Southeast Asia or Africa, the processing of the waste often takes place in an informal way, not complying with the safety guidances, thus leading to adverse social, economic and environmental impact on the surrounding communities². This lack of ‘level playing field’ also exists in the EU due to noncompliance and significant costs difference. Intensified and more dissuasive enforcement of the policy to stop dumping practices and illegal shipment is thus highly needed.

The EEB and Zero Waste Europe also remind that the objective to ‘simplify and reduce burden of the WSR implementation’ should not only target the burden for businesses, but the overall burden for society, including the enforcement burden and the human health and environmental burden. Such a holistic and balanced view would help to identify the best improvements for reducing the burden overall, which cannot merely be synonymous to becoming more lenient when it comes to notification procedure and duties of exporters.

Furthermore, addressing the issues related to waste shipment is a way to close the circular economy gaps in Europe. While decreasing the pressure and the adverse impacts on the receiving communities, stringent restrictions for waste shipment outside of the EU will also lead to a more robust secondary raw material market by allowing economy of scale, marking the market price

¹ <https://eeb.org/library/who-is-paying-the-bill-negative-impacts-of-eu-policies-and-practices-in-the-world/>

² <https://zerowasteurope.eu/2019/04/discarded-communities-on-the-frontlines-of-the-global-plastic-crisis/>



more competitive and allowing more job creation. Additionally, it will identify the type of product generating waste with no value in the circular economy, and therefore be phased-out in the long run.

1. Concerning general the EU waste shipment rules, the EEB and ZWE particularly call for:

- **The subordination of any shipment for recycling inside and outside of the EU to a public assessment of national recycling capacity.**

This assessment should be made publicly available that no recycling solutions could be identified domestically for the related waste stream. This would help identify the needs regarding recycling infrastructure in Europe but also the type of products leading to low-value waste that would need to be phased-out. Such provision would also contribute to reducing waste exports for recycling over hundreds or thousands of kilometers across the EU and to strengthen the local recycling operators.

- **Stricter provision applied to illegal waste shipments**

Those provisions would make illegal shipments much more dissuasive by applying higher sanctions, prohibition of trade within the EU during a significant period and making publicly available details of shipments declared illegal.

- **A full transparency regarding shipment procedures, available in real time.**

Such transparency means making publicly available real time data on prior informed consent procedures and even general information for green listed waste, through a EU harmonized digital system. This would not only ease registration for business and inspection for authorities but also enable the civil society to act as watchdog for shipment within and outside the EU, possibly supporting the need for better enforcement. The claim for confidentiality should not be an excuse to reduce transparency. If confidentiality clauses are to be set then there should be a clear public visibility of it and they should come with a fee associated with the EPR schemes of the product/material to discourage non disclosure of information. In case the data on receiving facilities is not disclosed, such non-disclosure should be made public.

- **Setting lists of pre-consented recycling and hazardous waste processing facilities within and outside the EU**

Those lists should be based on mutual recognition by the EU and importing countries of equivalent ESM standards. For these pre-consented facilities, notification process could potentially be



streamlined as the OECD Decision allows it (reduced delays for notification and *tacit consent* procedure).

- **The setup of more systematic financial guarantees in case of notification, but also in case of shipment for reuse and repair**

These financial guarantees could be seen as a deposit to be refunded when evidence is received of a compliant treatment according to the notification, or the repaired product comes back to the exporting country. In case the shipment is for reuse in the importing country, the financial guarantees should be allocated to the importing country to cover financially the end of life stage that would happen in the receiving country (the EPR fee should 'follow' the product until its end of life). The financial guarantee should at least be equal to the producer responsibility fee of the shipped items or the estimated cost of proper waste management in the exporting country. A system for ensuring refund or sound use of the financial guarantee should be established along a multi-stakeholders governance, including representatives of authorities, businesses, civil society and international institutions (e.g UNEP). Shipments made within the EU towards pre-consented facilities may be exempted from such financial guarantees.

2. **Concerning EU waste export outside of its territory, the EEB and ZWE particularly call for:**

- **The restriction of export of hazardous waste and notified waste outside the EU to complement a strict enforcement of the Basel ban to export hazardous waste to non-OECD countries.**

The European Union should be dealing with its own hazardous waste, also acting as a means of pressure to detoxify our material streams and reduce absolutely our generation of hazardous waste. Even within the EU, the most stringent standards should be applied in a harmonized way and stricter enforcement should take place when it comes to hazardous waste or notified waste transboundary shipments.

- **A strict enforcement of the Basel ban to export waste requires special consideration to non-OECD (listed under annex II of the Basel convention), but even more the ban of the export of such waste to any country outside of the EU.**

The ban of such export from the EU countries to non-OECD countries should be extended to apply to all OECD countries. Such type of waste is of low-quality, being often mixed or contaminated, practically non-recyclable or with very low value. If the ban's rationale is that developing countries do not have the means to properly treat exported waste, then such provisions should also apply



for OECD countries without the infrastructure to ensure proper treatment, being increasingly targeted by EU waste shipments.

- **The ban of extra-EU export of waste destined for disposal and energy recovery**

Only export of waste for recycling should be allowed and under strict conditions of tracking and mutual recognition of pre-consented recycling facilities by both exporting and importing countries, as well as publicly available evidence of equivalent ESM standards.

- **Ban the export of European plastic waste outside of its territory**

A product put on the European market and generating waste produced in Europe should only be allowed if it can be recycled in Europe. Such measures will stimulate the secondary raw material market in Europe and help identifying the type of plastic that should have never been put on the market beforehand. This means applying a ban to extra-EU export of plastic waste listed under Annex II of the Basel convention. To this day, the procedure for sending such waste remains the same regardless of the destination (non-OECD, OECD or EU).

3. Concerning intra-EU waste export, the EEB and ZWE particularly call for:

- **A strict application of the waste hierarchy to European waste shipments**

In order to serve a genuine circular economy, the European Union should apply to its waste shipment procedures, the same guidelines it has for waste management e.g the waste hierarchy. There should be a division of shipments according to the type of management it is destined. Such classification would therefore lead to progressive shipment procedures, prioritising and facilitating shipments for reuse and recycling rather than shipments for energy recovery and other types of disposal.

- **The subordination of any intra-EU shipment for disposal and energy recovery to a public assessment that no better option is available**

This assessment should be made publicly available that no better sorting and recycling solutions could be identified for the related waste stream. This would act as a way to des-incentivise shipment for disposal and energy recovery and oblige companies to thoroughly investigate possible alternative waste treatment more in line with the circular economy.

- **A complete public traceability for waste trade within the European Union.**



No waste should ever be shipped, either for disposal or recycling, without having its journey and the relevant actors involved made publicly available. No shipment should be allowed if a full traceability is not enforced.

- **A European harmonisation of the classification of waste on hazardousness**

This classification should be established so that there is no different classification between EU countries. In the transition period until such harmonization can be established, a mutual recognition of the classification by both importing and exporting countries should be granted based on a public consultation in concerned countries. Similar mutual recognition based on a transparent consultation process should also apply for end of waste status if not set at EU level.

- **The facilitation of intra-EU shipments for reuse or repair, based on strong evidences**

Those shipments should be eased, provided there are clear evidences that shipped items will actually be reused (e.g functionality test) or repaired (e.g warranty period, part of after sales contract, reaching a registered repairer/charity organisation). Shipments for reuse and repair outside EU should be limited and allowed under even stricter conditions. In addition to rules applying at EU level, shipments for reuse and repair outside EU should notably be handled by authorized and certified trading, reusing and repairing schemes also recognized by the authorities of the importing country. Being within or outside EU, any shipment for reuse and repair should come with an information on substances contained in products and materials, as well as repair instructions so that all economic actors along the (global) supply chain and potentially all enforcement authorities can know how to best handle the products and materials of concern. The detailed info on products to be reused or repaired should be part of the condition to allow its shipment. This would align with the product information system to be set at EU level

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