

Rethink Plastic Position on the Inception Impact Assessment of the Waste Shipment Regulation

The upcoming revision of *Regulation (EC) No 1013/2006 on Shipments of Waste*, also referred to as the Waste Shipment Regulation (WSR), comes at a critical moment and on the heels of significant changes to the European Union (EU) and international policy landscape on the circular economy and plastic waste. In order to achieve a circular economy for plastics, the [Rethink Plastic alliance](#) believes that the WSR will require several important revisions to address plastic-waste shipments destined for non-EU countries and other Member States alike.

I. Ban on Plastic-Waste Exports to Non-EU Countries

In the European Green Deal (EGD), the Commission states its “view that the EU should stop exporting its waste outside of the EU and will therefore revisit the rules on waste shipments and illegal exports.”¹ This view is reaffirmed in the new Circular Economy Action Plan (CEAP) where the Commission states that its review of the WSR will “aim at restricting exports of waste that have harmful environmental and health impacts in third countries or can be treated domestically within the EU by focusing on countries of destination, problematic waste streams, types of waste operations that are source of concern, and enforcement to counteract illegal shipments.”² Plastic waste meets all the requirements for waste whose export should be restricted and, for these reasons, the EU should propose a ban on plastic-waste exports to non-EU countries. To the extent any exceptions exist, those must be time-bound and narrow, subject to robust criteria and restrictions such as limited to only certain types of pre-sorted plastic polymers destined for environmentally sound recycling at certified facilities (see below measures on plastic-waste trade within the EU, also applicable to any exceptions).

The ban on plastic-waste exports to non-EU countries is part of a larger effort. The Commission and Member States must continue to implement existing legislation, including the Waste Framework Directive and Single-Use Plastics Directive, among others, and adopt the additional measures identified in the new CEAP.³ In other words, a ban on plastic-waste exports to non-EU countries is part of a comprehensive package of policies to create a circular economy for plastics, supported by and supportive of measures to reduce the overall plastic-waste generation, to eliminate the production and use of low-quality and hard-to-recycle plastic, and to scale up recycling (both quality and quantity) and secondary markets for recyclates.

II. Measures on Plastic-Waste Trade within the EU

For intra-EU trade in plastic waste, the Commission should propose several revisions to the WSR to mitigate harmful impacts and promote a circular economy, including the following measures.

- **Circular-Economy Principles and the Waste Hierarchy.** There currently is no distinction between plastic waste sent for recycling or for energy recovery.⁴ A clear distinction should be made between waste sent for preparation for reuse or recycling and waste sent for energy recovery, in alignment with the waste hierarchy.⁵
- **Certification Schemes for Plastic Waste.** Cross-border trade in plastic waste is notoriously opaque, characterized by a lack of transparency, traceability and accountability across the value chain. Many plastic-waste traders engage in unscrupulous practices taking advantage of the lack of inspection and enforcement resources. This includes shipping unsorted or household waste as scrap plastic (misdeclaration), falsifying trade documents (fraud) and using multimodal transportation and multiple ports of entry to hide destination and treatment (concealment).⁶ To address this, the Commission should require certification and introduce a certification schemes framework to reduce illegal plastic-waste trade and promote a circular economy for plastics, one that undertakes regular monitoring,

provides assurances on contents and treatment facility, including environmentally sound management (ESM), and allows for traceability from origin to destination through a chain-of-custody tracking system. To this end, the Commission should draw and expand upon the recommendations on certification schemes in the “practical manuals for the promotion of the environmentally sound management of wastes,” prepared by the expert working group on ESM established under the Basel Convention.⁷

- **Environmentally Sound Management.** The concept of environmentally sound management for plastic waste requires operationalization in the WSR. Plastic waste is not as homogenous as other waste streams, such as metal, paper and glass, and the Commission should specify in detail how the concept applies to plastic waste and its management in particular. At present, the WSR defines “environmentally sound management” as “taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste.”⁸ While drawing from the guidance provided by the Organization for Economic Co-operation and Development (OECD) and Basel Convention, the Commission should propose more detailed criteria for the ESM of plastic waste—or a process for their adoption and regular update via implementing or delegated acts—in line with waste hierarchy and circular economy principles.⁹
- **National Plastic-Waste Trade Reduction Plans.** In line with the principles of proximity and self-sufficiency, Member States should submit national plastic-waste trade reduction plans by a date certain, designed to ensure the proximate treatment of domestically produced plastic waste, including the identification of domestic plastic-waste production and infrastructure needs as well as policies and strategies to ensure its environmentally sound management (in line with the principles of waste hierarchy, circular economy and environmentally sound management).¹⁰
- **Data Reporting.** The Commission should require annual reporting from the relevant actors in plastic-waste trade, *i.e.* producers, holders, collectors, dealers, brokers, consignees and notifiers as defined in the WSR,¹¹ providing the key data contained in the notifications.¹² Failure to report should result in automatic withdrawal of authorization to engage in plastic-waste trade.
- **Inspection and Enforcement.** Similar to other EU waste legislation, Member States should carry out regular inspections on a certain percentage of plastic-waste traders and installations annually, based on an EU risk-based targeting mechanism.¹³
- **Transparency and Traceability.** The Commission should propose several measures to update the existing antiquated system and provide additional transparency and traceability, including: (i) transitioning to an electronic system for plastic-waste shipments; (ii) tracking plastic-waste shipments in real-time via this harmonized electronic system, which would apply to waste subject to prior written informed notification and consent as well as for waste subject to general information requirements; and (iii) establishing and maintaining an electronic registry and database with information on authorizations, notification procedures, certification schemes and reported data.

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References

- ¹ European Commission, *Communication from the Commission: The European Green Deal* (11 December 2019), p. 8 available at https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf.
- ² European Commission, *Communication from the Commission: A New Circular Economy Action Plan for a Cleaner and More Competitive Europe* (11 March 2020), p. 15 available at https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC_1&format=PDF.
- ³ See e.g. Directive (EU) 2019/904 on the Reduction of the Impact of Certain Plastic Products on the Environment; Directive 2008/98/EC on Waste (consolidated 2018 version); Directive (EU) 2018/850 on the Landfill of Waste; Directive (EU) 2019/883 on Port Reception Facilities for the Delivery of Waste from Ships; European Commission, *Communication from the Commission: A New Circular Economy Action Plan for a Cleaner and More Competitive Europe* (11 March 2020), p. 15 available at https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC_1&format=PDF.
- ⁴ Regulation (EC) No 1013/2006 on Shipments of Waste (consolidated 2018 version), Articles 3(2).
- ⁵ Directive 2008/98/EC on Waste (consolidated 2018 version), Article 3(1).
- ⁶ See e.g. Grid-Arendal, *The Trade in Plastic Waste* (website), available at <https://grid-arendal.maps.arcgis.com/apps/Cascade/index.html?appid=002738ffb18548818a61cc88161ac464>.
- ⁷ Basel Convention, *Practical Manuals on Promoting the Environmentally Sound Management of Wastes* (website), available at <http://www.basel.int/Portals/4/download.aspx?d=UNEP-CHW.13-4-Add.1.English.pdf>.
- ⁸ Regulation (EC) No 1013/2006 on Shipments of Waste (consolidated 2018 version), Article 2(8), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1454069470717&uri=CELEX:02006R1013-20180101>.
- ⁹ See e.g. Organization for Economic Co-operation and Development (OECD), *Guidance Manual on Environmentally Sound Management of Waste* (2017), available at <http://www.oecd.org/env/waste/39559085.pdf>; Basel Convention, *Environmentally Sound Management (ESM) Toolkit* (website), available at <http://www.basel.int/Implementation/CountryLedInitiative/EnvironmentallySoundManagement/ESMToolkit/Overview/tabid/5839/Default.aspx>.
- ¹⁰ Directive 2008/98/EC on Waste (consolidated 2018 version), Article 16.
- ¹¹ Regulation (EC) No 1013/2006 on Shipments of Waste (consolidated 2018 version), Articles 2(9)-(15).
- ¹² Regulation (EC) No 1013/2006 on Shipments of Waste (consolidated 2018 version), Annexes I-IV.
- ¹³ See e.g. Directive (EU) 2019/883 on Port Reception Facilities for the Delivery of Waste from Ships, Article 11.