



Brussels,

## **Minutes**

### **Ad Hoc Meeting of the Waste Shipment Correspondents**

#### **Regulation (EC) No 1013/2006 on shipments of waste**

26 March 2021

This meeting was held through electronic means. The meeting of the Correspondents (Member States representatives) of 26 March was preceded by a meeting on 25 March with stakeholders involved in the management and shipment of waste, as well as NGOs.

The purpose of both meetings was to discuss the development of Correspondents' guidelines on a common interpretation of some provisions relating to the entries on plastic waste agreed in the Basel Convention (A3210, Y48 and B3011), in the OECD Decision (AC300) and in the Waste Shipment Regulation (EU48 and EU3011), which entered into force on 1 January 2021.

#### **1. INTRODUCTION BY THE COMMISSION**

The Commission recalled that the objective of this meeting was to progress on the adoption of new Correspondents Guidelines on a common interpretation of some provisions relating to entries on plastic waste agreed in the Basel Convention (A3210, Y48 and B3011), in the OECD Decision (AC300) and in the Waste Shipment Regulation (EU48 and EU3011). The Commission underlined the importance of coming to an agreement on these guidelines soon, as the new entries are already effective since 1 January 2021 and in order to avoid diverging interpretations across the EU.

#### **2. APPROVAL OF THE AGENDA**

The Commission proposed the following agenda to guide the discussions:

1. Welcome and summary of discussions at the open session 25 March by Commission
2. Establishment of a common threshold across the EU to specify how “almost free from contamination” and “almost exclusively” should be interpreted
  - a. What would be appropriate levels for such thresholds?

- b. Should separate thresholds be established for B3011 vs EU3011?
- 3. Scope of the guidelines:
  - a. What can be agreed?
  - b. Timeframe to further develop the guidelines in case a limited scope is agreed for the moment
- 4. Other elements for discussion
- 5. Conclusions/next steps

One Correspondent asked to include a slot to exchange general views before agenda item 2 and to move agenda item 3.b under agenda item 5. With these changes the agenda was approved. In addition, the item AOB was added to the agenda.

### **3. SUMMARY OF DISCUSSIONS AT THE OPEN SESSION 25 MARCH BY COMMISSION**

The Commission gave a concise summary of the discussions of the open session on 25 March.

A large number of stakeholders, representing waste collection and recycling industries, plastic converters and producers, and NGOs participated in the open session expressing their views on the issues below.

#### **On the establishment of a threshold or thresholds:**

- There was a general support that common thresholds across the EU should be agreed in order to specify how the terms “almost free from contamination and other types of waste” and “almost exclusively” contained in the new entries on plastic waste should be interpreted.
- A large number of stakeholders supported the idea to set different thresholds for intra- and extra-EU shipments. Wide support was expressed for the establishment of a threshold for plastic waste under entry B3011 which would be lower than for entry EU3011. Many industry stakeholders indicated that such threshold could be set at 2% in relation to entry B3011. With respect to intra-EU shipments of waste (entry EU3011), many industry stakeholders warned that setting a too low threshold would mean that a large number of shipments of plastic waste for recycling would become subject to the notification procedure. They stressed that this would deter many operators to ship plastic waste for recycling and would have no environmental added-value. In that context, some industry stakeholders suggested a threshold of 8-10% in relation to entry EU3011. It was also indicated by some industry stakeholders that, for some types of plastic waste, this threshold would still be too low, e.g. for agricultural plastic waste. For such waste, they advocated that a derogation could be established from the common thresholds, under the condition that traceability would be ensured and that they are shipped to certified recycling facilities.
- NGOs indicated that their preferred position was that a similar threshold be set both for B3011 and EU3011, and referred to the fact that some shipments of plastic waste within the EU lack traceability and are shipped illegally to destinations where they are not treated in environmentally sound manner.
- Many industry stakeholders commented that moisture, lids, caps and labels, for instance in bottles, should not be accounted for in thresholds that could be agreed in the guidelines.

### **On the scope of the entries:**

With regard to the scope of the entries, a discussion took place on the extent to which they cover “composites”, i.e. waste consisting of two or more different materials, of which one or more or all are plastics.

NGOs insisted that it was key to make sure that certain types of plastic waste containing different types of polymers and additives are covered by the new entries, as these are the plastic waste which are the most difficult to recover in an environmentally sound manner.

It was noted by one Correspondent that products and objects that contain plastics but are classified under specific entries, are not to be considered plastic waste under the entries covered by these guidelines. In that sense, objects like for example WEEE or cables are classified specifically. Other objects that contain different materials, including plastics, but that are not covered by a specific entry are considered as “unlisted waste” and are subject to the notification procedure.

Some stakeholders commented that guidance may be useful to clarify which composites are covered by the new entries.

The Commission noted this request, indicated that this issue is not specific to the new entries but of a more general nature on the interpretation of the Basel Convention and the waste shipment regulation – and that this discussion should be distinct from the discussion on the terms “almost free from contamination and other types of waste” and “almost exclusively”, which are the issues that should be agreed through the guidelines as a priority.

### **On the entry into force of the guidelines and a possible review clause:**

Diverging views were expressed on this. There were suggestions that the Correspondents Guidelines should enter into force in September (with a transitional period before that), others did not see a transitional period possible, as the entries have legally entered into force on 1 January 2021.

There was some support for including a review clause, but not earlier than 5 years, to accommodate the legal certainty for involved economic operators.

Finally, a link was made with the ongoing review of the Waste Shipment Regulation to reconsider the rules on plastic waste shipments within the EU, and/or to streamline the classification of green-listed waste more generally.

## **4. DISCUSSION WITH CORRESPONDENTS**

Most Correspondents that spoke expressed their strong support for reaching an agreement on the guidelines as soon as possible, with a focus on the interpretation of the terms “almost free from contamination and other types of waste” and “almost exclusively”, namely setting thresholds or benchmarks and addressing related issues such as secondary components, moisture content, and sampling and measurement methods. Some indicated that the guidelines could be short and only address these issues, but could be complemented at a later stage with additional elements.

Most Correspondents that spoke expressed support for setting a 2% threshold for B3011. One Correspondent expressed the view that they would prefer that this 2% threshold be applied for

both intra and extra EU shipments. One Correspondent indicate that they have a scrutiny reservation on whether they could accept the principle of setting a threshold at all.

Many Correspondents that spoke expressed their support in principle to establish different thresholds for intra-EU (entry EU3011) and extra-EU shipments (entry B3011). Some Correspondents, typically from Member States with large ports and which are important exporters of waste outside the EU, expressed concerns on a possible shift in enforcement burdens to these Member States if different thresholds are set for intra-EU and extra-EU shipments of waste. Other Correspondents invited for more explanations on this matter, to better understand these concerns. In this context, according to one Correspondent, sampling should already be done in the country of dispatch by the exporter and be presented upon request during inspections.

Regarding intra-EU shipments, various proposals were made on a possible level for a common threshold for the entry EU3011. A number of Correspondents expressed objections against a 2% threshold level for EU3011. One Correspondent referred to experience in this country whereby a certain amount of plastic packaging waste relating to single polymers that is shipped between Member States abides by specifications with a 6% contamination level and noted that plastic packaging waste has a share of more than 50% of all plastic waste generated. This Correspondent therefore suggested to take this level as a threshold or “benchmark” to interpret the terms “almost free from contamination and other types of waste” and “almost exclusively” in EU3011 as well as for mixtures relating to EU3011 in Annex IIIA. Another Correspondent supported this 6% level for EU 3011.

Another Correspondent indicated support for a threshold of 8 to 10%, which reflects current levels of impurity set out for waste subject to EPR schemes in their country, and which reflects the quality of waste that are treated for recycling. This level could be set for an interim period, and then lowered.

One Correspondent indicated that they have been applying a 2% threshold for entry B3010 until the end of 2020, both for intra-EU shipments of waste and for export of waste outside the EU, and would like to continue applying this threshold for entry EU3011. Another Correspondent raised doubts that this threshold has really been applied for shipments at least between the two Member States as the statistics would not show notifications of shipments of plastic waste.

Some Correspondents indicated that they have not yet developed a position in relation to thresholds.

One Correspondent stressed that it was also important to clarify that a threshold be set not only for contamination levels in EU3011, but also for the mixtures relating to EU3011 in Annex IIIA.

Another Correspondent pointed to the relevance of the chapeau of the Green list, indicating to the fact that plastic waste might not be listed under B3011 or EU3011 if the nature of contamination would prevent the environmentally sound recycling, also in case the amount of contamination would be below an agreed threshold.

One Correspondent highlighted that, for shipment of agricultural plastic films, some flexibility would be needed, as their contamination level with water or soil was often much higher than for other types of plastic waste. Many Correspondents were however sceptical about foreseeing a derogation for these waste flows, as not only water and soil can appear as contamination here, but also chemicals like pesticides.

Some Correspondents pointed out that the thresholds should not be calculated on the basis of dry mass. They e.g. indicated that, when conducting controls, residual fluids would be emptied

but the waste would not be dried. Some clarifications were requested on this point including on how to formulate a respective text in Correspondents' guidelines.

As regards secondary components, for example in relation to PET bottles, a number of Correspondents highlighted that for plastic waste, when collected separately or when sorted, caps and labels should not be accounted as contaminants.

Regarding sampling and measurement methods, one Correspondent indicated that such methods should be left to Member States for the time being as there is no method at EU level that could be referred to.

Some Correspondents addressed issues of enforceability; in this context, one Correspondent referred to their earlier written contribution on how to provide evidence for adhering to thresholds or benchmarks.

A more specific discussion took place on the issue of "composites": again this discussion showed that different understandings exist as regards what is covered by this term. Some aspects related to this discussion were considered as core elements to be tackled in the guidelines for some Correspondents, while others did not share this view.

A link with the review of the Waste Shipment Regulation was expressed with the possibility to include clarifications in the Regulation itself. The Commission clarified that Annex IIIA waste is regarded green listed, and that additives and mineral fillers in plastics should not be accounted as contamination.

## **5. AOB**

### **- Update of Commission Regulation (EC) No 1418/2007**

The Commission informed the meeting that the internal adoption process, led by DG TRADE, is ongoing with the aim to adopt it later in 2021.

One Correspondent expressed strong disappointment about this new delay.

### **- Review of the WSR**

The Commission informed the meeting of the ongoing work to finalise the impact assessment and to table a legislative proposal. The objective is to adopt the proposal by end of June, but the Commission referred to the risks of delays that may possibly occur.

### **- Information by Germany**

The German Correspondent informed the meeting that the German Environment Agency is commissioning a study on the interpretation of the new plastic entries.

### **- Plastic waste exports to Turkey**

One Correspondent asked how the outcome of the OECD discussions and the lack of implementation on that level of the Basel amendments affects exports of plastic waste to Turkey, especially in light of the fact that Turkey decided to opt out from the amendments on plastic waste agreed at the Basel Convention.

The Commission informed the meeting that Turkey adopted specific national legislation regarding the import of plastic waste. This does not affect how Member States and EU exporting companies apply the EU rules on the shipment of waste, which obviously continue to apply for them, including for exports to Turkey. However, exporting companies should be well aware of the rules in Turkey before proceeding with shipments and ensure that they comply with all

applicable rules there (they should notably have a contract with the importer in Turkey, who is subject to the Turkish legislation).

## 6. NEXT STEPS

The Commission invited the Correspondents to share their positions and comments on the way forward on the development of the Correspondents' Guidelines No 12 by 12 April 2021 and indicated that they would also circulate this invitation by e-mail after the meeting.

Views were invited in particular on the following elements:

- 1) The possibility to agree on a threshold/maximum contamination percentage of 2% for the interpretation of the terms 'almost free from contamination and other types of waste' and 'almost exclusively consisting of', as used in entry B3011;
- 2) The levels which could apply for a threshold/maximum contamination percentage for the interpretation of the terms 'almost free from contamination and other types of waste' and 'almost exclusively consisting of', for entry EU3011 – taking account of the various suggestions tabled at the Correspondents meeting, which were 2%, 6% or 8%;
- 3) The methods for calculating these thresholds/percentages (notably whether they should be based on moisture free weight/dry mass, or other methods)
- 4) The appropriateness to foresee derogations for specific waste types (i.e. agricultural films)
- 5) Any other pending issues, including difficulties related to sampling, definition of composites, particular challenges linked to "exit ports", interim storage, review clause.

The Commission indicated that it will attempt, based on the discussions at the meeting and the input on the issues mentioned above, to table a new proposal for developing the draft guidelines. If needed, another ad hoc Correspondents meeting could be scheduled with the aim to discuss a new draft and hopefully agree on the draft Correspondents Guidelines No 12.

## 7. LIST OF PARTICIPANTS

<b>Member States</b>	
Austria	Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology
Belgium	Environment Brussels
	OVAM – Public Waste Agency of Flanders
	Public Service of Wallonia
Croatia	Ministry of Economy and Sustainable Development
Cyprus	Ministry of Agriculture, Rural Development and Environment
Czech Republic	Ministry of Environment
Denmark	Ministry of Environment
Estonia	Ministry of Environment
Finland	Finnish Environment Institute
	Ministry of Environment
France	Ministry of Environment
Germany	Federal Environment Ministry

	Environment Ministry, Hesse
Greece	Hellenic Ministry of Environment and Energy
Ireland	Ministry of Environment
Italy	Ministry of Environment, Land and Sea
Latvia	State Environmental Service
Lithuania	Environmental Protection Agency
Luxemburg	Ministry of Environment, Climate and Sustainable Development
Malta	Environment and Resources Authority
Netherlands	Human Environment and Transport Inspectorate Ministry of Infrastructure and Water Management
Poland	Chief Inspectorate of Environmental Protection
Portugal	Portuguese Environment Agency Portuguese Permanent Representation to the EU
Slovenia	Ministry of environment and spatial planning
Slovakia	Ministry of the Environment
Sweden	Swedish Environmental Protection Agency
<b>EEA countries</b>	
Norway	Norwegian Environment Agency
<b>European Commission</b>	
DG Environment	
	Gaël DE ROTALIER
	Yorg AERTS
	Vytautė BACIANSKAITE