



Brussels,

## Minutes

### **Ad Hoc Meeting of the Waste Shipment Correspondents<sup>1</sup>**

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

14 January 2021

Due to the current situation as regards the covid-19 pandemic, and the practical challenges for holding physical meetings, this meeting was held through electronic means, namely via WebEx.

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

The Commission recalled that the purpose of this meeting was to exchange views and progress towards the adoption of new Correspondents Guidelines on a common interpretation of the 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), and to get clear views from the Correspondents on the important remaining items that need to be settled and progress towards the adoption of these Guidelines. In view of the fact that the new entries entered into force on 1 January 2021, it is very important to set out a common approach on their interpretation, including on the interim period pending the adoption of the Guidelines.

Further, it was explained that the Correspondents' Guidelines aim to clarify the interpretation of some terms used in the new plastic waste entries, that were included in the Basel Convention according to a decision by COP14 in May 2019 and which became effective as of 1 January 2021, and that were implemented in EU law through Commission Delegated Regulation (EU) 2020/2174 amending Annexes IC, III, IIIA, IV, V, VII and VIII to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste<sup>2</sup>.

Work has started in 2019 to develop the guidelines and a draft was discussed at the last annual meeting of the correspondents. Inputs have been gathered from correspondents on a number of drafts, and also from stakeholders on the latest draft that was circulated on 12 November 2020.

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<sup>1</sup> Published under <http://ec.europa.eu/environment/waste/shipments/meetings.htm>.

<sup>2</sup> [http://data.europa.eu/eli/reg\\_del/2020/2174/oj](http://data.europa.eu/eli/reg_del/2020/2174/oj)

Many comments were received from Member States and stakeholders, which were circulated to the Correspondents. The most important comments related to the possible levels of thresholds that could be set up through the Correspondents Guidelines to interpret some of the terms of the new entries on plastic waste.

The Commission indicated that the thresholds should be both ambitious and practical, and that introducing a contamination threshold of 2% for plastic waste shipments in the short term within the EU could lead to negative consequences for the environment. Not meeting such a threshold may result in more plastic waste being deposited in landfills or incinerated, and pose a risk of non-compliance with EU recycling targets.

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

The agenda was approved with minor changes.

## **3. MAIN REMAINING ISSUES FOR THE FINALISATION OF THE CORRESPONDENTS' GUIDELINES**

The meeting discussed first issues relating to the establishment of common thresholds across the EU to specify how the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin” should be interpreted (item 3(a) of the agenda).

The discussion focused first on the **pros and cons of setting out EU-wide thresholds applying to all types of plastic waste covered by the new entries.**

In that respect, several correspondents supported the idea that the Correspondents' Guidelines should set out thresholds to interpret the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin”. Some correspondents indicated that they do not have a position on this point yet, and some correspondents expressed concern about setting such a threshold. One MS could generally not support the idea.

Two correspondents indicated that they have already adopted national guidance to interpret the new entries, which includes the establishment of thresholds to interpret the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin”. These correspondents agreed to share these guidance documents with the other correspondents.

It was noted that stakeholders indicated in their observations that, in current specifications and in practice, the contamination levels vary greatly between the different types of plastic waste (packaging, plastic waste from WEEE, agricultural plastic waste...) and they plead for different thresholds depending on the types of plastic waste. It was also noted that there is no such distinction in the text of the new entries, which apply to all types of plastic waste.

A discussion took place on the possible justification to apply different thresholds for EU3011 compared to B3011. Some correspondents indicated that this would be justified as the recovery operations covered by EU3011 are not the same as for B3011. Some correspondents cautioned that such an approach may encourage shipment of plastic waste in the EU to those Member States which are traditionally important exporting countries (notably because they have large

ports), which would then have to deal with extra work to control the exports. One correspondent indicated that, under their national guidance, different thresholds apply for B3011 (2%) and EU3011 (5%). **Some participants indicated interest in further exploring the possibility to have different thresholds for EU3011 and B3011, and correspondents were invited to provide their input on this issue.**

With regard to the possible levels of such thresholds, the two correspondents of the MS where national guidance has been established indicated that the thresholds that they apply are 2% for both entries B3011 and EU3011 in one case, and 2% for B3011 and 5% for EU3011 in another case, whereby these thresholds apply for the combination of the two terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin”. Some correspondents referred to national specifications applied for some types of plastic waste, notably packaging, for example those agreed by EPR schemes, which also set out contamination thresholds. It was also recalled that stakeholders have sent specific input for the development of the Correspondents’ Guidelines on the various contamination levels for plastic waste applied under existing specifications and that some of them (recycling sector especially) have made clear that setting very low levels for EU3011 would have a profound negative impact on the recycling of plastic waste in the EU. **Correspondents were invited to provide views on the levels of thresholds for the interpretation of the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin”.**

Some correspondents stressed the importance of addressing also **mixtures of plastic waste covered by Annex IIIA** in the Correspondents’ Guidelines. Some correspondents actually considered that the most important question for them in practice relates to the threshold for “almost free from contamination and other types of waste” for such mixtures of plastic waste and that the distinction between mixtures covered by Annex IIIA and EU48 should be clearly addressed in the Correspondents’ Guidelines.

Some correspondents indicated that it should be clarified whether **caps and labels of bottles**, e.g. PET bottles, should be counted as contaminants under the new plastic entries. One correspondent stated that such caps and labels should not be counted as contaminants, also noting one key product requirement emanating from Directive (EU) 2019/904 (i.e. SUP Directive) whereby caps and lids shall remain physically attached to beverage containers during the products’ intended use stage. It was indicated by some participants that caps of PET bottles are usually made of PP or PE, which could mean that they can be present in a shipment of PET bottles and listed under B3011 or EU3011. Some participants indicated that this issue should be addressed in the Correspondents’ Guidelines.

The **combination of both thresholds** (for “almost free from contamination and other types of waste” and for “almost exclusively consisting of one polymer/resin”) was also discussed. The question is if these thresholds should be summed up and added in the case of presence of both non-plastic and plastic materials, or whether this should not be the case. One correspondent indicated that they do not sum up the thresholds but consider them as one (i.e. there is a 2% threshold for “almost free from contamination and other types of waste” and a 2% for “almost exclusively consisting of one polymer/resin” – but the overall acceptable threshold for all non-target materials is 2%).

The meeting briefly discussed the inclusion of a **review clause** to revisit the guidelines, notably any thresholds after a certain period of time, with a view to lower it or them when experience

and evidence proves that it is feasible, and concluded that this is something that needs to be considered after the core elements in the guidelines, and namely the establishment of thresholds, are agreed among correspondents.

Correspondents referred to ongoing initiatives on plastic waste in the context of the **Basel Convention** (Plastic waste partnership where Parties have been invited to share their interpretation of the new entries; development of Technical Guidelines for plastic waste where the issue might also be considered), as well as to the fact that a number of third countries have also adopted guidance on these issues.

Under agenda item 3(b), it was clarified that the term “**contamination**” in the term “almost free from contamination and other types of waste” should be understood as referring to the presence of non-target material with the concerned plastic waste (such as paper, metals, oil, food residues etc.); it does not encompass contamination as referred to in entries A3210 or AC300 or linked to the presence of hazardous substances in the desired polymer matrix (for example brominated flame retardants in certain WEEE plastics or lead / cadmium in PVC). In this latter case, it should be checked whether the waste could fulfil the conditions for being considered as hazardous waste. In addition, the relevant legislation on persistent organic pollutants and on chemicals needs to be respected. But this does not influence the interpretation of the term “*almost free from contamination and other types of wastes*” in the entries B3011, EU3011 and Y48.

Under agenda item 3(c), the Commission indicated that it may be useful to set a suitable time period between adoption and application of the Correspondents Guidelines in order for the actors involved in the shipment across borders of plastic waste to prepare its implementation. Some Correspondents indicated that this could be discussed after the agreement on the substance of the guidelines.

Finally, under agenda item 3(d) “Other possible remaining issues” many correspondents stressed the need to ensure the enforceability of any threshold or thresholds. Some correspondents explained how they perform **sampling and analyses of waste** to check thresholds. Other correspondents expressed concerns about the complexity of sampling and analysis and the need to clarify and harmonise this on an EU level. A discussion took place on the extent to which the Correspondents’ Guidelines should include guidance on sampling and analyses methods. The Commission indicated that IMPEL works on guidance on enforcement of the new entries, which could address this point more in depth, rather than the Correspondents’ Guidelines.

#### **4. INTERIM SOLUTION PENDING THE ADOPTION OF THE CORRESPONDENTS’ GUIDELINES**

The Commission expressed again the view that a common understanding in the form of adopted Correspondents guidelines should be agreed as soon as possible in order to avoid a disruptive situation and to provide the much needed clarity for all actors involved in the shipment across borders of plastic waste, and that an interim solution pending the adoption of the guidelines would be useful.

The meeting discussed the suggestion put forward in December 2020 by DG ENV on how to deal with the new situation pending the adoption of the guidelines

Some Correspondents acknowledged that an interim solution at EU level would avoid a situation where different rules would be applied and an absence of clarity on the rules for shipments within the EU while indicating that the suggestion put forward by DG ENV was not acceptable, and some other Correspondents indicated that they did not yet have a position on an interim solution, while some Correspondents indicated that they want to continue to apply the threshold they had already established nationally.

A number of Correspondents called on the Commission to come up with a revised suggestion for an interim solution and circulate it for comments and possible agreement to the Correspondents. The Commission indicated that it would be ready to do so, but would welcome inputs from the Correspondents on the content of this interim solution (especially on possible interim thresholds as discussed above). The Commission also added that any interim solution should not replace nor postpone the adoption of the Correspondents guidelines.

In the meantime, further work is planned to come to an agreement on the Correspondents' Guidelines. The Commission argued that, when implementing the new rules on shipment of plastic waste, the Member States should base themselves on the text of Commission Delegated Regulation (EU) 2020/2174, and take into consideration existing specifications, the principles contained in Council Decision (EU) 2019/638 and the overall objective to promote recycling and reuse in the EU.

## 5. CONCLUSION AND NEXT STEPS

- 1) The Correspondents are invited to share any national guidelines on the implementation of the new plastic waste entries, information on thresholds applied on a national or regional level, as well as relevant sampling and analysing methods and standards **by 21 January 2021**;
- 2) Correspondents are invited to send comments **by 28 January**:
  - a) on the draft guidelines dated 12 November 2020, including on
    - i. the possibility to establish different thresholds for entry EU3011, compared to entry B3011, for the interpretation of the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin”;
    - ii. the levels of thresholds which would be appropriate for the interpretation of the terms “almost free from contamination and other types of waste” and “almost exclusively consisting of one polymer/resin” in entries EU3011 and B3011;
    - iii. any other pending issues, including methods for sampling and analysis.
  - b) the possible content of an interim solution pending the adoption of the Correspondents Guidelines.

- 3) The Commission will revise the draft guidelines, taking into account the comments received so far, plus the additional comments received by 28 January, and will aim at circulating a revised draft by 5 February.
- 4) A next ad hoc Correspondents meeting can be scheduled as necessary and useful in the course of February (date tbc).

## 6. LIST OF PARTICIPANTS

<b>Member States</b>		
1	Austria	Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology
2	Belgium	Environment Brussels
		OVAM – Public Waste Agency of Flanders
		Public Service of Wallonia
3	Croatia	Ministry of Economy and Sustainable Development
4	Cyprus	Ministry of Agriculture, Rural Development and Environment
5	Czech Republic	Ministry of Environment
6	Denmark	Ministry of Environment
7	Estonia	Ministry of Environment
8	Finland	Finnish Environment Institute
9	France	Ministry of Environment
10	Germany	Federal Environment Ministry
		Federal Environment Agency
		Environment Ministry, Hesse
11	Greece	Hellenic Ministry of Environment and Energy
12	Ireland	Ministry of Environment
13	Italy	Ministry of Environment, Land and Sea
14	Latvia	Ministry of Environment
15	Lithuania	Environmental Protection Agency
16	Malta	Environment and Resources Authority
17	Netherlands	Human Environment and Transport Inspectorate
		Ministry of Infrastructure and Water Management
18	Poland	Chief Inspectorate of Environmental Protection
19	Portugal	Portuguese Environment Agency
		Portuguese Permanent Representation to the EU
20	Slovenia	Ministry of environment and spatial planning
21	Slovakia	Ministry of the Environment
22	Sweden	Swedish Environmental Protection Agency
<b>EEA countries</b>		
23	Norway	Norwegian Environment Agency
<b>European Commission</b>		
24	DG Environment	Mattia PELLEGRINI
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