



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels,
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Opinion

Title **Impact assessment on a legislative proposal and additional non-legislative measures strengthening the inspections and enforcement of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (draft version of 9 June 2011)**

(A) Context

The Waste Shipment Regulation 1013/2006 (WSR) prohibits all exports of hazardous waste to countries outside the OECD and all waste for disposal outside the EU/EFTA. The regulation contains rules for different types of shipments requiring either prior written notification and consent, or fulfilment of general information requirements, and specific obligations concerning a duty to take back waste shipments which are found to be illegal or which cannot be completed as envisaged. The WSR transposes the corresponding provisions of the United Nation's Basel Convention on the control of trans-boundary movement of hazardous waste. The WSR requires that all waste exported out of the OECD is treated in an environmentally-sound manner. Article 50 of the WSR sets out certain obligations on the Member States, aiming to ensure that effective inspection systems and spot-checks are put in place but there are no detailed provisions on how these inspections shall be carried out.

(B) Overall assessment

The IA report requires substantial improvements on a number of important aspects. The report should include a clearer assessment of the current problems related to the WSR, and a fully developed baseline scenario taking into account the expected effects of other relevant waste legislation. The report should be more transparent with regard to the discarded options, the rationale for the individual policy measures included in the retained options, and the corresponding estimates for the costs and benefits. The content of the preferred policy mix should be clarified, and its effects assessed against the baseline scenario. Finally, the report should present more fully developed monitoring and evaluation arrangements. Given the nature of these issues, the IAB requests DG Environment to resubmit a revised version of the IA report on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Better present the problem and the experience with implementation, compliance and enforcement of the WSR. The report should better explain: (i) the functioning of the current system of waste treatment and transport in the EU, pointing out best practices,

(ii) its relevance for the internal market for waste handling and recycling, (iii) the incentives for Member States to implement and comply with Community waste regulation and (iv) the main shipment routes for illegal waste (origin, points of departure, destinations). On that basis the report should provide a fuller analysis of the reasons for the insufficient implementation of the WSR by Member States and the effectiveness of the WSR in stopping illegal shipment so far. This should include an indication of the variation in intensity and in the effectiveness of inspections and other enforcement actions across Member States.

(2) Provide a fuller policy context and a more developed baseline scenario. The report should complete its description of the regulatory context by giving information about other relevant waste legislation, in particular the Directives on waste electrical and electronic equipment, landfill and end of life vehicles, and how they impact the baseline development. The baseline should also include expected developments in the relevant waste and recycling markets, including overall volumes of waste traded and impact of these factors on compliance. On this basis, the report should explain whether the current legal provisions need to be strengthened or complemented.

(3) Explain the rationale for measures considered under the policy options. The report should explain the rationale for policy options 2 and 3, clarify which measures are included in each of them and why, how they would work in practice, and what difference in terms of effectiveness/efficiency these are expected to make (e.g. for the control of upstream waste facilities). For this purpose, examples from Member States' best practices should be added. The report should then clarify whether all measures and policy options would apply equally to all types of waste (hazardous and non-hazardous) and all export destinations (OECD and non-OECD), and address proportionality issues with regard to legally shipped intra-EU waste. The report should also be more transparent about the options that were initially discussed but later discarded, such as the electronic tagging of waste.

(4) Improve the assessment of impacts. For each option the report should provide clearer estimates of costs and benefits. Given that the proposed measures focus on better enforcement, the analysis should concentrate on their effectiveness and the costs for public authorities. At the same time, the IA report should assess the extent to which these direct costs might be passed on to businesses/consumers. The report should discuss the impacts of reversing the burden of proof (from public authorities to business) in greater depth. The report should also clarify which Member States are likely to face the highest relative costs or institutional challenges. The report should also assess the impacts on employment, and quantify them if significant. Finally, the report should assess the impacts on the free circulation of waste and recycling material in the internal market and on the EU and non-EU recycling sectors.

(5) Better assess the costs and benefits of the preferred policy package. The report should explicitly specify the measures included in the preferred policy package (currently reported to be a combination of options 2 and 3) and assess and compare more fully their impacts against the baseline scenario. The comparison tables should include all major cost and benefits with indications of their relative size, complemented with a qualitative assessment.

(6) Clarify monitoring and evaluation arrangements. The indicators related to inspections and illegal shipments should be complemented with result or impact indicators relating to the specific objectives on cost savings, feasibility and enforceability. Finally, further specifications are needed regarding the "regular reviews of the inspection

plans" (e.g. how often will they be carried out and which are the responsible authorities).

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

Repetitions throughout the text should be avoided. A glossary of technical terms and abbreviations should be provided. The executive summary should have a separate section on subsidiarity, objectives and evaluation/monitoring.

(E) IAB scrutiny process

Reference number	2011/ENV/012
External expertise used	No
Date of Board Meeting	6 July 2011