

EVALUATION ROADMAP			
TITLE OF THE EVALUATION/FC	Evaluation of Regulation (EC) No 1013/2006 on shipments of waste <sup>1</sup> (Waste Shipment Regulation - WSR)		
LEAD DG RESPONSIBLE UNIT	DG ENV B3	DATE OF THIS ROADMAP	27/ 01 / 2017
TYPE OF EVALUATION	Retrospective	PLANNED START DATE	Q1 / 2017
		PLANNED COMPLETION DATE	Q3 / 2018
		PLANNING CALENDAR	
<b>This indicative roadmap is provided for information purposes only and is subject to change.</b>			

A. Purpose
(A.1) Purpose
<p>This evaluation is intended to assess whether the Regulation (EC) No 1013/2006 on shipments of waste (Waste Shipment Regulation - WSR) meets its objectives and is coherent with the general objectives of EU environmental policy, Circular Economy and the internal market. The results of this evaluation will be used to identify measures to improve the implementation of the WSR.</p> <p>It will also investigate costs and benefits associated with the implementation of the Waste Shipment Regulation for the stakeholders, at local, national and EU level.</p> <p>The evaluation will assess the criteria of: (i) effectiveness, (ii) efficiency, (iii) coherence, (iv) relevance and, (v) EU added value of the WSR.</p>
(A.2) Justification
<p>The WSR was amended through Regulation (EU) No 660/2014 to address in particular the problem of enforcement of the rules on shipments of waste. By this amendment, Article 60(2a) of the WSR calls upon the Commission to carry out a review of the WSR by 31 December 2020, taking into account, inter alia, the reports drawn up by Member States on implementation of the Regulation. In that review, the Commission shall consider, in particular, the effectiveness of inspections in combating illegal shipments, taking into account environmental, social and economic impacts.</p> <p>The Commission's Circular Economy Action Plan further emphasized amongst the listed measures the importance of stepping up the enforcement of the revised WSR<sup>2</sup>.</p> <p>The need for an evaluation is also justified by a number of concerns about certain WSR provisions causing unnecessary administrative burden as well as delays and additional costs for shipments of waste that have been raised by national authorities and stakeholders.</p>

<sup>1</sup> OJ L 190, 12.7.2006, p. 1

<sup>2</sup> COM(2015)614/Final, 2.12.2015 (see [http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_2&format=PDF))

## B. Content and subject of the evaluation

### (B.1) Subject area

Traded wastes often have a positive economic value as environmentally friendly, low-carbon, raw materials in industrial facilities but can also involve hazardous materials that create risks for human health and the environment, particularly as a result of uncontrolled movements of wastes from one country to another. In response to a public outcry following the discovery, in the 1980s, in various parts of the developing world of deposits of toxic wastes imported from abroad, the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* was adopted in 1989 to take action. The WSR implements into EU law the provisions of the Basel Convention but also the provisions of the *OECD Council Decision concerning the control of transboundary movements of wastes destined for recovery operations*<sup>3</sup>, and lays down procedures and control regimes for transboundary shipments of waste. These depend on the characteristics of the waste (e.g. hazardous, 'green'-listed), its destination and its treatment in terms of recovery or disposal.

Measures on the supervision and control of shipments of waste have been in place in the EU since 1984. The need to improve the monitoring of exports, respond to international developments and to take account of scientific and technical progress resulted in a series of amendments of the WSR over the years.

### (B.2) Original objectives of the intervention

As per the WSR (recital 1) its "main and predominant objective and component" is the protection of the environment. Uncontrolled shipments of waste can be associated with a risk of damage to human health and the environment, "its effects on international trade being only incidental". Therefore, it is important to ensure adequate protection by setting up rules to control such shipments and prevent any potential hazards.

In 2007, the WSR replaced the previously applicable Council Regulation (EEC) No 259/93 with the aim inter alia to establish greater legal clarity and pursue a global harmonisation in the area of transboundary shipments of waste.

### (B.3) How the objectives were to be achieved

In order to achieve its objectives, the WSR prohibits the export of all wastes for disposal outside the EU/EFTA area and bans the export of hazardous wastes to non-OECD countries. The control of transboundary shipments of waste is safeguarded through the use of a notification procedure requiring the consent of national competent authorities<sup>4</sup> prior to the shipment (the "prior written notification and consent" procedure). This procedure is applicable to all shipments of waste except for certain non-hazardous wastes destined for recovery. For shipments of waste subject to the notification procedure, national competent authorities have the right to raise reasoned objections on the basis of specific grounds, including the principle of proximity for the case of disposal. Shipments of non-hazardous waste to non-OECD countries are subject to provisions reflecting the choices of these countries<sup>5</sup>.

Moreover, Member States are required to ensure that shipments of waste and their treatment operations are managed in a manner that protects human health and the environment against any adverse effects that might result from such wastes. Member States are obliged to carry out inspections of waste shipments and ensure that in case of violation, the responsible parties are held accountable.

<sup>3</sup> OECD Council Decision C(2001)107/Final

<sup>4</sup> See: <http://ec.europa.eu/environment/waste/shipments/links.htm>

<sup>5</sup> See Regulation (EC) No 1418/2007 (OJ L 316, 4.12.2007, p.6)

## C. Scope of the evaluation

### (C.1) Topics covered

The evaluation will cover the application of the entire WSR in all Member States from the date of its application (i.e. 12 July 2007), including the amendments to the Regulation that have been adopted since 2007. The evaluation will also cover existing rules concerning the export for recovery of certain non-hazardous waste to non-OECD countries as laid down in Regulation (EC) No 1418/2007 which was adopted on the basis of Article 37 of the WSR. The evaluation will aim to consider all relevant aspects, i.e. legal (e.g. legal base, internal coherence, consistency with other legislation in approaches, terminology and legal concepts), environmental, economic and social.

The findings of the evaluation will assess how well the WSR has been applied and what its impact has been, identify any shortcomings with its implementation and enforcement, point out the causes of such shortcomings, and include evidence based conclusions.

The evaluation will rely on an evidence-based approach. Recent literature and reports on relevant aspects will be reviewed (see below) and consultation will take place with relevant stakeholders, including national, local and regional authorities, institutions, NGOs and organisations representing industry and trade while ensuring adequate and wide geographical representation within the EU.

The evaluation will consider issues affecting the performance of the Regulation including actions potentially leading to inefficiency and which inter alia hinder the smooth and efficient implementation of the WSR; complicate the process of waste shipments; cause delays and disproportional costs for operators; contribute to an increase of administrative burden for competent authorities and operators, etc. The evaluation will also include as appropriate, the effectiveness of the inspection plans specified in Article 50(2a) in combating illegal shipments.

### (C.2) Issues to be examined

Standard evaluation criteria (relevance, effectiveness, efficiency, coherence and consistency and EU added value) will be used.

#### **Relevance**

The overall relevance of the WSR will be examined in the light of its main objective, the Circular Economy agenda and any other relevant EU policy objectives. This will include an examination of how the problems and needs associated with uncontrolled shipments of waste have evolved since 2007 and how the WSR may have contributed to the trends observed.

In addition, the evaluation will examine how well the Regulation adequately addresses the environmental and health impact(s) of transboundary shipments of waste within, into, out of and through the European Union. It will also examine to what extent it helps enhance the efficient use of resources and establish a well functioning single market for waste treatment services and recovered materials within a more circular EU economy. In this context, account will also be taken of the EU's international obligations resulting from inter alia the Basel Convention and the relevant OECD Decision and of EU resource and energy efficiency, circular economy, raw materials and climate action policy objectives. Particular emphasis will also be given to any accumulated experience in the efforts to combat illegal shipments through the establishment of inspection plans.

#### **Effectiveness**

The extent to which the WSR fulfils its objective will be assessed based on available information regarding the

implementation and enforcement of key provisions in practice. This will include an assessment of the extent to which any observed effects related to the objectives of the WSR can be credited to the WSR.

The evaluation will look at the degree to which shipments of waste carried out in accordance with the provisions of the WSR may still be associated with risks to human health and the environment. Possible loopholes or shortcomings in the effectiveness of the WSR, including the causes of such shortcomings will be identified.

Moreover, the impact of the WSR in the prevention of illegal dumpings of waste from one country to another will be considered, to address the question: How has the WSR contributed to the combating of illicit trafficking of waste across borders?

### **Efficiency**

The efficiency of the WSR will be assessed by considering the costs and benefits involved in achieving its objective. The factors influencing the efficient application of the WSR, either positively or negatively will be elucidated.

The current procedures and control regimes for the transboundary shipments of wastes for a treatment operation under the WSR will be assessed to check the appropriateness of current practices (e.g. inadequate, sufficient, excessive). This will include an assessment of whether the WSR generates unnecessary administrative or technical barriers, especially for small and medium sized enterprises.

### **Coherence and consistency**

An analysis will be carried out of the links and interactions of the WSR (together with Regulation (EC) No 1418/2007) as regards its internal coherence as well as coherence with other pieces of EU legislation such as the Waste Framework Directive,<sup>6</sup> the Directive on waste electrical and electronic equipment (WEEE),<sup>7</sup> the Directive on end-of life vehicles (ELV),<sup>8</sup> Decision 2000/532/EC on the list of waste<sup>9</sup> and product and substance legislation applicable to recycled materials as well as any other relevant EU policies and legislation to be identified by the evaluation. Possible inconsistencies, overlaps, contradictions, etc will be highlighted.

### **EU added value**

The added value resulting from the harmonised regime established by the WSR will be assessed. This assessment will include the benefits brought to the EU by the WSR as compared to what could be achieved by Member States at national, regional and international levels alone.

### **(C.3) Other tasks**

The evaluation will include information on the adoption of any inspection plans by Member States and their views on the effectiveness of Article 50(2a) in combating illegal shipments, taking into account their experience in establishing the inspection plans. The findings will include identification of possible gaps or shortcomings in this regard.

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<sup>6</sup> OJ L 312, 22.11.2008

<sup>7</sup> OJ L 197, 24.7.2012

<sup>8</sup> OJ L 269, 21.10.2000

<sup>9</sup> OJ L 226, 6.9.2000

## D. Evidence base

### (D.1) Evidence from monitoring

Member States report to the Commission annually on the implementation of the WSR. Specifically, before the end of each calendar year, Member States submit to the Commission (Eurostat) the following reports<sup>10</sup>:

- a copy of the report for the previous calendar year which, in accordance with Article 13(3) of the Basel Convention, it has drawn up and submitted to the Secretariat of that Convention,
- a report for the previous year based on the additional reporting questionnaire in Annex IX of the WSR.

The Commission adopted its fourth tri-annual report on implementation of the WSR (see Commission reports under <http://ec.europa.eu/environment/waste/shipments/reports.htm>). The assessment of the Member States' reports submitted under the WSR (i.e. since 2008 on the basis of Article 62(3)) including the information based on the additional reporting questionnaire in Annex IX of the WSR is also part of the planned evaluation. The next triannual Commission report will cover the period of the years 2013-2015.

Data on transboundary shipments of waste is published periodically by:

- Eurostat (see <http://ec.europa.eu/eurostat/web/waste/transboundary-waste-shipments>).
- DG Trade (see <http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/waste-shipment/>)

### (D.2) Previous evaluations and other reports

Supporting data and information will be collected as part of a dedicated contract to support the evaluation, and in the course of consultation with stakeholders.

Available evidence to be used in the evaluation includes the results of existing studies that have identified problematic issues in the area of waste shipments but also possible opinions from the REFIT Platform and other sources of information demonstrating problems in the application of existing provisions, identifying existing gaps and pointing to the need for improvements, simplifications and beneficial adjustments.

The following non-exhaustive list of existing documents is available for use in the evaluation:

- Commission study: The efficient functioning of waste markets in the European Union - legislative and policy options - final report (2016); <http://ec.europa.eu/environment/waste/studies/index.htm>
- Commission study: Regulatory Obstacles To Circular Economy On Selected High Potential Markets – final report (2016) to be published.
- Commission study: The Feasibility of Introducing a Certification Scheme/Standard for Recycling Treatment Facilities – final report (2012): [https://ec.europa.eu/growth/tools-databases/eip-raw-materials/en/system/files/ged/13%20recycling-treatment-facilities-rpa2012-report\\_en.pdf](https://ec.europa.eu/growth/tools-databases/eip-raw-materials/en/system/files/ged/13%20recycling-treatment-facilities-rpa2012-report_en.pdf)
- Final report for an administrative burden reduction action programme: ABRplus (2015): <http://bookshop.europa.eu/en/abrplus-pbKA0115190/?CatalogCategoryID=X0gKABstUGQAAAEjwZAY4e5L>
- EU Project on baseline measurement and reduction of administrative costs (2009): [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/abst09\\_statistics\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/abst09_statistics_en.pdf)
- Reducing regulatory burdens - Priority area: [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/priority\\_area\\_related\\_data\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/priority_area_related_data_en.htm)

<sup>10</sup> The reports are available through the [CIRCA server](#)

<ul style="list-style-type: none"> <li>• Stoiber group (2014): <a href="http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm">http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm</a> (see page 64 of Annex 8 on recommendation for e-system for waste shipments)</li> <li>• Regulatory Fitness and Performance Programme REFIT and the 10 Priorities of the Commission (Commission Staff Working Document) <a href="http://ec.europa.eu/atwork/pdf/201621025_refit_scoreboard_2016_en.pdf">http://ec.europa.eu/atwork/pdf/201621025_refit_scoreboard_2016_en.pdf</a></li> </ul>
(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)
Several complaints received by the Commission concern the application of the WSR in the Member States. These mainly relate to differences in waste classification among competent authorities and the level of fines imposed.
(D.4) Consultation
<p>The evaluation will include interviews with relevant stakeholders, including national, local and regional authorities, institutions, NGOs and organisations representing industry and trade.</p> <p>Building on this work, an online public consultation in line with the Commission's general principles and standards shall be carried out and shall remain open for a minimum period of 12 weeks. The launch of stakeholder consultations related to this evaluation will be announced in the consultation planning that can be found at: <a href="http://ec.europa.eu/environment/consultations_en.htm">http://ec.europa.eu/environment/consultations_en.htm</a>.</p> <p>Moreover, two stakeholder meetings will be organised. The first meeting will take place prior to, or during the public consultation and will assist in identifying and confirming the issues for the evaluation. The second meeting will take place before the finalisation of the evaluation and shall aim to receive final feedback that would assist in the completion of the evaluation.</p>
(D.5) Further evidence to be gathered
<p>The evaluation will take into consideration relevant documentation published by the European Environment Agency (<a href="http://www.eea.europa.eu/">http://www.eea.europa.eu/</a>) as well as relevant information available through the environment authorities of the countries members of the European Economic Area (e.g. EEA's report on movements of waste across the EU's internal and external borders under: <a href="http://www.eea.europa.eu/publications/movements-of-waste-EU-2012">http://www.eea.europa.eu/publications/movements-of-waste-EU-2012</a>).</p> <p>Moreover, the evaluation will consider the reports on waste shipments published by the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) (<a href="http://www.impel.eu/topics/waste-and-tfs/">http://www.impel.eu/topics/waste-and-tfs/</a>), in particular the reports related to enforcement actions (see <a href="http://www.impel.eu/topics/waste-and-tfs/?list=projects">http://www.impel.eu/topics/waste-and-tfs/?list=projects</a>).</p>

<b>E. Other relevant information/ remarks</b>
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