17 January 2022

Response to the Commission Proposal for the

Revision of the Waste Shipments Regulation

Municipal Waste Europe welcomes the Commission proposal for the revision of the Waste Shipments Regulation and the way in which it addresses the issue of illegal shipments as well as the creation of a digital notification system which is simultaneously accessible by all Member States and adaptable to existing national digital notification systems.

Our feedback and proposals below identify loopholes which can still be closed in order to further inhibit illegal shipments while facilitating legal shipments of waste for reuse, recycling and recovery within the EU.

In our view, **Policy Option 1** does not go far enough to address the issue of illegal shipments of waste both within the EU and to third countries.

Municipal Waste Europe is aligned with and fully supports all of the objectives outlined in the introduction (pages 7, 8, 9) to the proposal for the revision of the Waste Shipments Regulation. (**Objective 1:** Facilitate shipments within the EU, in particular to align the WSR with circular economy objectives, **Objective 2:** Guarantee that waste exported from the EU is managed in an environmentally sound manner, **Objective 3:** Better address illegal shipments of waste within and from and to the EU).

Commission Proposal's description of Option 4:

In view of the above we consider that the combination of the targeted and structural changes chosen would result in a balanced approach in terms of effectiveness (achievement of the objectives) and efficiency (cost-effectiveness). It aims to ensure that this Regulation can facilitate intra-EU shipments in line with the circular economy objectives, support the EU's objective to stop exporting its waste challenges to third countries, and contribute to better addressing illegal shipments of waste without risking excessive costs or disruption. It responds to both (i) the need for new, effective measures to achieve the three objectives, and (ii) the importance attached to them being implementable while not creating excessive burden or undesirable impacts.

MWE is in alignment with the objectives of Option 4 and supports a follow-up Commission proposal for a revised WSR on this basis.

As mentioned above, MWE is in favour of an obligation for Member States to digitalise the notification procedure for intra-EU shipments of waste via the electronic data interchange system. We find the 24-month timeframe for introduction of such a procedure after the entry into force of the revised WSR sufficient as we are aware of the ongoing preparatory work with Member States and stakeholders to prepare for this new regime.

The matter of registration of Brokers and Dealers within the Digital Notification Platform in order to avoid the trading of waste by entities or persons which rapidly become untraceable has not been resolved by this proposal. We propose that this loophole is resolved with the two following measures:

1. Make the last waste owner (not broker or dealer) responsible for obtaining and uploading proof of the Environmentally Sound Management (ESM) of the waste shipped into the Digital Platform for EU, OECD and non-OECD shipments
2. Modify the definition of Brokers and Dealers as follows:

Article 3.6(a)(iv) a dealer or a broker *is a fully registered entity in the Electronic Data System as audited by the Competent Authorities of dispatch and destination* acting on behalf of any of the categories specified in points (i), (ii) or (iii);

We are missing an obligation for the streamlined, harmonised implementation and interpretation of Green and Amber listed wastes. We recognise the additional steps proposed within the text to avoid misunderstandings and misinterpretations between Competent Authorities during the digital notification stage however differences in the interpretation of what constitutes green listed and orange listed wastes will still cause problems at border controls given the current text; for example as has happened with textiles where the sending Member State understands a shipment of used clothing and footwear to be green listed and the receiving Member State understands it to be amber listed as it is a mixture of two green listed wastes. As far as possible this difference in understanding needs to be avoided.

Title II, Shipments within the Union with or without transit through third countries, *Article 4, Overall procedural framework*

Proposed by the Commission:

Art.4.2. Shipments of the following wastes destined for recovery operations shall also be subject to the procedure of prior written notification and consent laid down in Chapter 1:

1. (a) wastes listed in Annex IV;
2. (b) wastes not classified under one single entry in either Annex III, Annex IIIB or Annex IV;
3. (c) mixtures of wastes, unless listed in Annex IIIA.

Art.4.5. Paragraph 2 shall apply to shipments of mixed municipal waste collected from private households, from other waste producers or from both, as well as to mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties, where such waste is destined for recovery operations. Shipments of such waste destined for disposal shall be prohibited.

Municipal Waste Europe fully supports the use of a prior written notification and consent procedure for the shipment of waste for recovery to be understood as including energy recovery with the purpose of increasing traceability and reducing illegalities. We have no issue with the ban on shipments of mixed waste for disposal with the exception of any border region agreements, so long as it is made abundantly clear that this does not apply to shipments of *residual* mixed waste for recovery.

Care must be taken not to encourage undesirable impacts such as illegal shipments of waste by either causing increases in cost of correct treatment methods or closing off routes to correct treatment paths and plants.

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There are established routes for the legal treatment of non-recyclable residual waste for which there is no treatment capacity in the country of origin. What we propose to further strengthen this revision is to introduce more monitoring and traceability measures to ensure that this waste actually ends up in the destined waste to energy plant and is not illegally dumped. This can be achieved through certification of the destination facilities, their pre-notification, preferably for a period of up to seven years, in the digital system and through the communication of a certificate of treatment to the dispatcher. To fulfil the ultimate aim of having as little non-recyclable waste as possible, we propose that minimum recycling targets are strengthened with the accompanying measures required such as supporting investment in more sorting and recycling facilities throughout the EU which also serves to retain value within the economic area.

MWE supports the following revision as proposed:

Article 5.3. The contract shall include obligations:

(c) on the facility where the waste is recovered or disposed of, to provide, in accordance with Article 16(4), a certificate that the waste has been recovered or disposed of, in accordance with the notification and the conditions specified therein and the requirements of this Regulation.

Article 12: Objections to shipments of waste destined for recovery

…Competent authorities may object if…

e) limiting incoming shipments of waste destined for recovery operations other than recycling and preparing for re-use is necessary for a Member State in order to protect its waste management network, *where it is established that such shipments would result in domestic waste having to be disposed of or treated in a way that is not consistent with their waste management plans*;

Municipal Waste Europe is in support of this revision.

Article 16: Requirements following consent to a shipment

Proposed by the Commission:

Art.16.4. The facility carrying out a non-interim recovery operation or disposal operation shall, as soon as possible and no later than 30 days after completion of that operation, and no later than one calendar year, or the shorter period referred to in Article 9(5), after receipt of the waste, certify, under its responsibility, that the non-interim recovery or disposal has been completed.

Art.16.5. The certificate referred to in paragraph 4, shall be submitted to the notifier and the relevant authorities, either by the facility carrying out the operation, or, in case it has no access to a system as referred to in Article 26, via the notifier.

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MWE Proposal for Modification:

Art.16.5. The certificate referred to in paragraph 4, shall be submitted to the notifier and the relevant authorities~~, either~~ by the facility carrying out the operation~~, or,~~ **~~in case it has no access to a system as referred to in Article 26~~**~~, via the notifier~~.

Justification: Waste Treatment Facilities receiving waste for recovery from other Member States must always have access to the system through which they must deliver the 'certificate of confirmation of completion of treatment' which will include relevant data on quantities of materials reused, recycled or otherwise recovered. If this is not mandated and ensured it creates a problematic loophole in Art. 26 and leaves room for undesirable interpretation if the 'notifier' is an unregistered broker or dealer.

MWE supports Art.26 which sets up an electronic data exchange platform to enable electronic notification of shipments, immediate data exchange between competent authorities of Member States and interoperability between the waste shipments notification platform and the electronic freight transport information platform.

Municipal Waste Europe is in favour of Article 44, 'Obligations on Member States of export', which obliges Member States to monitor all persons, legal or natural conducting waste shipments to ensure they are in compliance with this regulation.

Thanking you in advance for your consideration of our feedback and proposals,

Vanya Veras
Secretary General

Contact:
Email: vanya.veras@municipalwasteeurope.eu
Tel: +32 491 89 18 58