

# Waste Shipment Regulation Impact Assessment – Public Consultation - non-paper NL

## Introduction to this non-paper

The Netherlands very much welcomes this impact assessment regarding the possibilities of implementing the new policy objectives defined in the European Green Deal and the new Circular Economy Action Plan in the Waste Shipment Regulation (WSR). In this non-paper we respond to the findings of the impact assessment and the questions posed in relation to it. We are also happy to share the experiences we have gained through on-going related initiatives, like for example the North Sea Resources Roundabout, the Innovation Deals and the PolyStyreneLoop initiative. The handling of the goods that flow through our ports is also a source of information and experience that we have used as input for this non-paper.

In this paper, we share our reasoning behind our selecting and ticking of the provided boxes by adding "explanatory notes" to almost all the checkboxes provided.

In general, we very much support the implementation of the three policy objectives elaborated in this impact assessment in the WSR.

In general we are of the opinion that the export of waste from the EU should only be allowed if there is clear evidence that it will be processed in an environmentally sound manner. The Netherlands considers the guaranteeing of environmentally sound processing of the exported waste through sound safeguards as a crucial precondition.

We are of course willing to further explain the information we have provided.

In order to improve readability, the responses of the Netherlands are shown in blue text. The introductory text and statements from the original questionnaire are shown in black.

## **Questions to the general public on the policy objectives of the review of the Waste Shipment Regulation and on how to pursue them.**

In this section, we ([read: the European Commission](#)) would like to seek your views on how important it is to pursue a number of policy objectives in the review of the WSR.

Further below there are more in depth questions that target those that are more familiar with the detailed processes related to waste shipment and the implementation of the WSR. At the end of the questionnaire the opportunity is provided to opt-in for targeted stakeholder interviews and to upload one document supporting and detailing your views and opinions.

## First policy objective: the WSR should support the transition to a circular economy in the EU more effectively

It is often argued that the WSR does not effectively support the creation of a safe and yet dynamic internal market for secondary raw materials, which is an important

component of a Circular Economy: it does not align sufficiently with the waste hierarchy as outlined in the EU waste legislation (The waste hierarchy sets out that, when implementing waste policy, the following priority order should be followed: prevent waste, preparation for re-use, recycling, incineration with energy recovery, incineration without any energy recovery or landfilling, in descending order) and some of its procedures do not facilitate the transboundary movements of waste for preparation for re-use or recycling within the EU as far as they could (e.g. because of administrative burdens or of inconsistent implementation by the Member States), and may instead facilitate the movements of waste for incineration or disposal.

The transition towards a circular economy is now a key priority for the EU. This was not the case when the WSR was adopted in 2006, and this is why it did not feature as an explicit objective of the current regulation.

We are seeking your views on the relevance of this policy objective, as well as on measures considered to pursue it within a review of the Waste Shipment Regulation.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to: ++ = Strongly agree // -- = Strongly disagree // NOp = No opinion >>>	++	+	-	--	NOp
More effectively support the transition to a circular economy.	X				
Make the movement of waste easier within the EU when destined for preparation for reuse or for recycling.	X				
Make the movement of waste more difficult within the EU when destined for incineration with energy recovery.	X				
Make the movement of waste more difficult or even impossible within the EU when destined for disposal (e.g. incineration without energy recovery, landfilling).			X		
Improve the efficiency of the procedures and administration for both competent authorities and companies shipping waste between Member States, e.g. by obliging the use of an EU wide harmonized electronic system (instead of the current paper-based procedures).	X				

A review of the Waste Shipment Regulation should seek to:

++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>> | ++ | + | - | -- | NOP

Explanatory notes:

- In the circular economy we want to process waste at the highest possible level. Therefore waste should easily be shipped within the EU to the best suitable processing plant for preferably reuse or for recycling. Especially when the shipment takes places in the context of extended producer responsibility, for example when equipment is sent back to the producer for preparation for reuse or for reuse of components.
- The Netherlands would also like to take this opportunity to underline the need to provide tools that support innovations in their development from unproven technology to a mature industrial treatment process. Especially the collection and storage of the feedstock (waste!) needed to start up and de-bottleneck the first industrial size plant has proven to be a real challenge.
- Shipments destined for disposal are already constrained by WSR Article 11. We appreciate the opportunity provided by the WSR to cooperate between Member States in special cases where a Member State is unable to dispose of its waste within its own territory.
- With regard to the 3rd statement we would like to propose to investigate whether more materials would be recycled if such a shipment would be explicitly checked for the absence of capacity for (preparation for) reuse or recycling before allowing incineration. Obviously, this procedure should not hinder the shipment of waste that is ultimately destined for incineration to a location best equipped for this incineration.

## Second policy objective: Restrict the export of EU waste to third countries

Significant volumes of waste are exported outside the EU, often without sufficient control of the conditions under which the waste is managed in the destination countries, especially in developing countries. This can harm the environment and public health in destination countries and can be a loss of valuable resources for the EU industry. The provisions of the WSR do not appear sufficient to address this situation. The WSR makes a distinction between export to OECD countries and export to countries which are not in the OECD area. The OECD is the Organisation for Economic Cooperation and Development and includes in addition to most EU Member States, the following countries: Canada, USA, Mexico, Chile, Israel, Turkey, Norway, Switzerland, Iceland, United Kingdom, Australia, New Zealand, South Korea and Japan.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to:					
++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>>	++	+	-	--	NOp
Keep the current EU rules on export of waste unchanged but increase their enforcement			X		
<p><b>Explanatory notes:</b></p> <ul style="list-style-type: none"> <li>Adequate legal clarity and harmonization in approach will also improve its enforcement. Guaranteeing environmentally sound processing of the exported waste through sound safeguards is crucial.</li> <li>We would also like to reiterate our proposal to replace Regulation (EC) No. 1418/2007 with a managed look-up list, for example on a Commission web page, which is easier to update and therefore more appropriate to reflect the actual conditions imposed by the importing third countries. An up-to-date list of the factual conditions is crucial for enforcement authorities when controlling exports to third countries.</li> </ul>					

Regarding export of waste to non-EU OECD countries:					
++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>>	++	+	-	--	NOp
Ban the export of waste to non-EU OECD countries			X		
Ban the export of waste to non-EU OECD countries, unless there is clear evidence that it will be processed in an environmentally sound manner	X				
<p><b>Explanatory notes:</b></p> <ul style="list-style-type: none"> <li>We do not want to exclude all cooperation with non-EU OECD countries in advance, especially when exports to these countries result in appropriate treatment in the form of reuse or recycling. In this matter, the actual conditions that are imposed by the importing countries are of great importance and should be an important consideration when allowing or refusing export. The guaranteeing of and sound safeguards for an environmentally sound processing of the exported waste is a crucial precondition.</li> </ul>					

Regarding export of waste to non-OECD countries only:					
++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>>	++	+	-	--	NOp
Ban the export of waste to developing countries	X				
Ban the export of waste to developing countries, unless there is clear evidence that it will be processed in an environmentally sound manner	X				
Restrict the export of certain wastes to developing countries	X				

Regarding export of waste to non-OECD countries only:

++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>> | ++ | + | - | -- | NOP

Explanatory notes:

- It is clear that the current restrictions on exports of waste to non-OECD countries (WSR Articles 36 and 37) have not prevented environmental problems related to the processing of this "non-hazardous" waste in the importing non-OECD countries. The safest way to avoid these problems is to ban all export of waste to these countries. But in practice and especially in the short term, there are some drawbacks to this somewhat drastic first option. The adverse consequences should be minimized by smart customization.
- At the moment Member States are in a transition to a circular economy and as a result we do not currently have sufficient capacity to process all our waste within the Union at the desired quality level. For example, an abrupt ban on the export of easily recyclable waste, such as waste paper, will most likely lead to incineration or even landfill of this waste paper due to a lack of recycling capacity. Of course, the time we need to build our own processing capacity can never be an excuse to export any of our environmental challenges to countries that are likely to be even less able to deal with them.
- However, if there is clear evidence that this waste is processed in an environmentally sound manner, a continuation of these exports will allow these developing countries to stay connected to developments in the developed countries. In this way, these exports will form a backbone for exporting European environmental standards to these developing countries, an activity that will benefit both parties.
- The enforcement of exports of "used equipment" could very well benefit from a more strict regulated separation of waste from non-waste. It is evident that developing countries are generally unable to deal with wastes such as e-waste or end-of-life vehicles. Stopping exports of this type of waste to developing countries should be easier. And the definition of "used equipment", which may be exported, must be directly related to the requirements for admission to the European market.

### Third policy objective: Strengthen the enforcement of the Waste Shipment Regulation's provisions

The enforcement of the WSR lies within the competencies of the EU's Member States. At the moment this enforcement and its coordination between Member States could be improved. This results in the persistence of a level of illegal shipments of waste and/or illegal treatment of legally shipped waste occurring within the EU (often linked to activities of organised criminal networks), as well as to illegal shipments of waste from the EU to third countries, in particular to developing countries.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to:					
++ = Strongly agree // -- = Strongly disagree // NOP = No opinion >>>	++	+	-	--	NOp
Strengthen the enforcement of the Waste Shipment Regulation’s provisions		X			
Improve the coordination at EU level of enforcement efforts by Member States against illegal shipment , e.g. by establishing a dedicated forum or body	X				
<p><b>Explanatory notes:</b></p> <ul style="list-style-type: none"> <li>• An effective enforcement prevents honest entrepreneurs from having to pay for the damage caused by illegal shipments. Therefore, strengthening enforcement should be risk-based and proportionate.</li> <li>• Enforcement of exports from seaports must be coordinated (regionally) to prevent exploitation of alleged local weaknesses. The enforcement focus should not only lie on seaports, but also on landlocked borders to prevent illegal shipment by land or river. Cooperation between WSR authorities should be promoted and supported.</li> <li>• Indeed, coordination of enforcement efforts at EU level needs to be improved, by strengthening already existing cooperation, such as in the IMPEL Waste &amp; TFS Expert Team (European Union Network for the Implementation and Enforcement of Environmental Law - Waste and TransFrontier Shipments of waste). More structural and formal cooperation would also be supportive.</li> </ul>					

Additional information or suggestions on all of the aspects above, that you would like to share with the Commission regarding the review of the Waste Shipment Regulation.

Additional policy objectives

What policy objectives, in addition to those listed above, should the review of the Waste Shipment Regulation pursue?

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Additional measures

What measures, in addition to those listed above, should the review of the Waste Shipment Regulation include?

500 character(s) maximum

- Make the movement of waste easier within the EU when the shipment is from and to the same Member State with transit through a different Member State.
- Make the movement of waste easier within the EU when destined for laboratory or pilot plant testing for a restricted period of time per pilot, and not only depending on the amount of the waste.
- As already mentioned in our explanatory notes to the first policy objective:  
The Netherlands would also like to take this opportunity to underline the need to provide tools that support innovations in their development from unproven technology to a mature industrial treatment process. Especially the collection and storage of the feedstock (waste!) needed to start up and de-bottleneck the first industrial size plant has proven to be a real challenge.

## **Would you like to provide more detailed views and fill in the questions in part III, which are designed for those with a more in depth expert knowledge of the WSR?**

X Yes

### Expert stakeholder questionnaire

In addition to the general considerations above, we invite your views on a number of potential measures to pursue these policy objectives. Some measures are more extensive than others, some build on existing provisions or practices, others may introduce new elements. In some cases, these measures may also be helpful for multiple objectives - for example, an electronic data interchange may not only assist in reducing unnecessary burden but may also improve the consistency of approaches to waste shipments across the EU. However, for the purpose of this questionnaire, and in order to avoid duplication of measures, they are mentioned only once against the first relevant policy objective.

### First policy objective: more effectively support the transition to a circular economy

In order to pursue this policy objective, the Commission services have identified a set of measures for consideration in a review of the WSR. These measures are grouped under the following priority areas:

- A) Better align rules governing intra-EU shipments of waste with the waste hierarchy and with existing EU legislation.
- B) Simplify and reduce administrative burden linked to the implementation of the WSR.
- C) Harmonise interpretation, application and enforcement across Member States.
- D) Better adapt the WSR to technical progress and stimulate innovation.

#### 1A Align the Waste Shipment Regulation with the waste hierarchy and with existing EU legislation

Facilitating the environmentally sound management of wastes, with a clear preference for the options higher up the waste management hierarchy contributes to reducing the need for new products or virgin materials and their associated costs in terms of emission of greenhouse gases and use of non-renewable raw materials. This contributes to the transition of the EU towards a Circular Economy.

Art.4 of the Waste Framework Directive 2008/98/EC defines the waste management hierarchy. This principle prioritises the waste management methods that preserve the economic and environmental value of products and are thus aligned with the principles of a Circular Economy. The waste management hierarchy is the following, in descending order of preference (preferred options first):

- prevention (beyond the scope of the WSR);
- preparing for re-use;
- recycling ;
- other recovery, e.g. energy recovery;
- disposal (e.g. in landfills).

Further, recently, an important part of EU waste legislation was substantially amended to enhance its

contribution to a circular economy (e.g. more ambitious recycling targets, reduction targets for waste destined for landfills). The WSR itself, however, does not yet reflect these steps towards a circular economy. This leads to inconsistencies and legal uncertainty.

Do you agree that this is a policy objective that a review of the WSR should seek to pursue?

X Fully

In order to pursue this policy objective, the following measures could be undertaken.

1A	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Introduce a new simplified procedure for intra-EU shipments of waste destined to preparation for reuse or to recycling. This new procedure would apply instead of the prior informed consent procedure in well-defined cases (shipments only to an approved list of facilities) and under specific conditions (prenotification through electronic data interchange system, shorter deadlines for authorities for raising objections, combined with tacit consent as a principle)	X							X
In order to encourage the fast track procedure that is currently in art. 14 of the WSR establish clear conditions at EU level to pre-consent facilities, together with the principle of mutual recognition of these facilities across the EU by the Member States.			X					X
Narrow down the grounds for objections to shipments of waste for preparation for re-use or for recycling (through revision of Article 12)				X		X		
Consider options to limit shipments of waste to energy recovery.	X							X
Consider options to limit further or prohibit (with limited exemptions) shipments for disposal between Member States.			X			X		
Determine contamination levels at the EU level in the context of classifying waste as hazardous or mixed: this can include the development of threshold values for contamination /mixtures of waste.	X							X



1A		Level of support					Expected impacts		
		++	+	+/-	--	NOp	¬E	E¬P	E&P
Levels of support: ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion		Expected impacts: ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							
Explanatory notes: <ul style="list-style-type: none"> <li>The effectiveness of the proposed 2nd measure (encouraging the fast track procedure) will be determined by the "clear criteria" that will be established. These criteria should aim to treat waste at the highest possible level (according to the waste hierarchy).</li> <li>We do not think that the 3rd measure, narrowing down the grounds for objection, will improve the circularity of our economy. Instead, an assessment of the contribution of the intended treatment to high quality recycling should be added as a mandatory criterion.</li> <li>With regard to the 6th measure, we would like to share that, in our experience, the current method of classifying waste as hazardous is usable. In contrast, enforcement would certainly benefit from clear EU criteria for the classification of mixtures.</li> </ul>									

### 1B Simplification and reduction of administrative burden linked to the implementation of the WSR

Costs linked to the implementation of the WSR exist at public authority, company and societal level. For Member States, resources for inspection and law enforcement infrastructure represent the main share of the costs together with the costs for dealing with illegal shipments. Costs for companies are linked to administrative requirements, direct financial costs and dispute settlement costs.

Most of the direct costs linked to the WSR are of procedural and administrative nature. The main obstacles are the complex and time-consuming - often paper-based - notification procedures.

Another major cost - mostly for Member State competent authorities - concerns the taking back of illegal waste shipments.

Do you agree that this is a policy objective that a review of the WSR should seek to pursue?

X Fully

In order to pursue this policy objective, the following measures could be undertaken. For each measure, please indicate your level of support and the impacts you foresee.

1B	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Develop at EU level the conditions for the functioning of an Electronic Data Interchange (EDI) system to facilitate electronic notification and movement procedures for waste shipments, better monitoring of waste flows and to allow a smooth sharing of information between public authorities.	X							X
Rethink the financial guarantee provisions/obligations: envisage possible alternatives for the currently used and required systems. This might involve an EU fund, an insurance-based system or other formats. Guidance could accompany this measure.	X							X
Issue guidance on improving efficiency and simplifying the implementation of provisions related to the prior written notification and consent procedures.	X							X
<b>Levels of support:</b> ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion	<b>Expected impacts:</b> ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							
<b>Explanatory notes:</b> <ul style="list-style-type: none"> <li>In our opinion, compliance and enforcement of the WSR within the EU will benefit from all three measures mentioned.</li> </ul>								

### 1C Harmonisation of interpretation, application and enforcement across Member States

Different levels and manners of applying and enforcing the WSR, often combined with diverging interpretations of its provisions, result in its suboptimal implementation throughout the EU. The lack of common interpretation of WSR provisions leads to delays in shipments. These delays can e.g. lead to additional storage costs for waste whilst decisions are pending, as well as to shipments being rerouted to destinations where they would be treated in a less environmentally sound manner than initially planned. One concrete example relates to end-of-waste criteria and their different interpretations across Member States. This results in delays in and burdens on shipments of wastes across the EU, despite the fact that in many cases waste flows are of good quality and are sent for proper recovery.

The codes used in the Basel Convention, the OECD, the EU List of Waste and those applied for customs purposes are all different. Work is ongoing to align some of the codes. Nevertheless, the varying classification as "waste" or "non-waste", or as "hazardous" or "non-hazardous" waste and the interpretation of related definitions in different Member States make shipments of certain waste streams difficult. Other inconsistencies relate to the interface between waste, chemicals and products legislation.

Do you agree that this is a policy objective that a review of the WSR should seek to pursue?

X Fully

In order to pursue this policy objective, the following measures could be undertaken. For each measure, please indicate your level of support and the impacts you foresee.

1C	Level of support					Expected impacts		
	++	+	+/-	--	NOp	-E	E→P	E&P
Provide further guidance to clarify the links between the different types of classification of waste. (Notably differences between classification of waste under (i) the EU list of waste based on the Waste Framework Directive, (ii) customs HS code, (iii) Basel Convention, (iv) OECD Decision...).		X						X
Introduce in the WSR the principle of mutual recognition of national classification on whether a commodity is waste or not in case of shipments, including as regards the application of end-of-waste criteria.		X						X
Define rules to determine which Member State's (dispatch or destination) decision would prevail to decide whether a commodity is classified as waste or not, including as regards the application of end-of-waste criteria.				X		X		
Develop guidance on implementation of Article 28 to foster a common interpretation across the EU Member States on how to deal with disagreements between Member States on whether a commodity is waste or not, including as regards the application of end-of-waste criteria.		X						X
Introduce in the WSR the principle of mutual recognition of national rules on whether a waste is classified as hazardous or not in case of shipments.				X		X		
Define rules to determine which Member State's (dispatch or destination) decision would prevail to decide whether a waste is classified as hazardous or not.				X		X		
Develop guidance to foster a common interpretation across the EU MS on how to deal with disagreements between MS on whether a waste is classified as hazardous or not.		X						X
Establish structured exchange of information and experiences between MS and at EU level, e.g. by creating a platform for MS to share information. Information can include bilateral agreements on waste shipment related topics, end-of-waste decisions	X							X

1C		Level of support					Expected impacts		
		++	+	+/-	--	NOp	¬E	E¬P	E&P
Levels of support: ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion		Expected impacts: ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							
Explanatory notes: <ul style="list-style-type: none"> <li>About the 1st measure: In our opinion, the core of the matter is waste recycling at the highest possible quality level. This must of course be done in an environmentally sound and safe manner. The classification of waste is a tool to enforce a minimum standard for environmentally sound and safe treatment.</li> <li>With regard to the 2nd measure, <u>mutual</u> acceptance should not be mandatory, but a free choice for each Member State.</li> <li>With regard to the 3rd and 4th measures, in our view we should maintain the scope of WSR Article 28: if competent authorities cannot agree, the strictest interpretation will prevail.</li> <li>With regard to the 5th and 6th measures the classification hazardous should only be related to the hazardous properties of the waste stream in its actual physical state, as is currently the case. However, this does not exclude that the prior written notification and consent procedure can be made compulsory for non-hazardous waste, which can nevertheless pose a hazard if treated incorrectly, for example due to the production of highly toxic combustion products during incineration under unsuitable process parameters.</li> <li>With regard to the 7th measure, in our opinion we do not need a common interpretation on how to deal with the disagreements themselves, as we already have a guidance document on the classification of waste (2018/C 124/01) to minimize the occurrence of such disagreements. Instead, we think that the underlying challenges should be looked at more, such as the implications for the treatment of a type of waste after it has been classified as hazardous.</li> </ul>									

#### 1D better adapt to technical progress and stimulation of innovation

Some of the procedures and controls in the WSR may lag behind technological or policy progress, and thus hinder the adoption of the necessary up-to-date measures to ensure the most effective and efficient implementation of the WSR over time. The procedures leading to the revision of an EU legal text are too lengthy and costly to accommodate for many of such changes.

Do you agree that this is a policy objective that a review of the WSR should seek to pursue?

X Fully

In order to pursue this policy objective, the following measures could be undertaken. For each measure, please indicate your level of support and the impacts you foresee.

1D		Level of support					Expected impacts		
		++	+	+/-	--	NOp	¬E	E¬P	E&P
Provide more relevant delegations to the Commission to adapt the Regulation over time to technical and policy progress.				X				X	
<p>Levels of support:</p> <p>++ = Fully</p> <p>+ = To a large extent</p> <p>+/- = Only to some extent</p> <p>-- = Not at all</p> <p>NOp = Do not know / no opinion</p>		<p>Expected impacts:</p> <p>¬E The proposed measure is ineffective: it does not achieve its intended purpose.</p> <p>E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits.</p> <p>E&amp;P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.</p>							
<p>Explanatory notes:</p> <ul style="list-style-type: none"> <li>Possibly there can be some merit in extending delegations to the Commission to adapt the Regulation to technical progress. It is important to recognize that, for example, the treatment operations of waste are not defined in this Regulation, but in Annexes I and II of the Waste Framework Directive. These operations are currently being reviewed under the Basel Convention. We may have to adapt these Annexes to the changes in the Basel Convention in due course.</li> <li>Changes due to progress in policy need major support from all stakeholders. In our view delegating to the Commission the adaptation of this Regulation to policy changes is therefore not desirable.</li> </ul>									

What additional EU level measure(s), if any, would you recommend to pursue the first policy objective "support more effectively the transition to a circular economy"?

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- As already mentioned in our explanatory note to the "Questions to the general public":  
Make the movement of waste easier within the EU when destined for laboratory or pilot plant testing for a restricted period of time per pilot, and not only depending on the amount of the waste.
- As already mentioned in our explanatory notes to the first policy objective:  
The Netherlands would also like to take this opportunity to underline the need to provide tools that support innovations in their development from unproven technology to a mature industrial treatment process. Especially the collection and storage of the feedstock (waste!) needed to start up and de-bottleneck the first industrial size plant has proven to be a real challenge.
- The extended producer responsibility (EPR) is an important tool for achieving a circular economy. In case a producer must or wants to take back his end-of-life product, the procedure should be easier than the current procedure. The WSR should facilitate this.
- Since both the Member State of dispatch and the Member State of destination want to assess each notification to verify that all local conditions are met, it would be more efficient if the competent authority of dispatch only forwards the notification if it has no objection.
- Since new end-of-waste criteria are often linked to the emergence of a new innovative treatment process, most of the time these criteria are developed at a national level. Once this innovation has become a

proven technology, the accessibility of this process will benefit from an institutionalised possibility for mutual acceptance of these new criteria.

What impacts (benefits, risks, costs) of any of the measures proposed above would you like to flag to the Commission? Please substantiate your statement with quantitative data as much as possible. You can add information by using the option of attaching a document to your response (see end of survey)

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## 2. Second policy objective: Restrict the export of EU waste to third countries

### 2A Restrict the export of EU waste outside the EU

International trade in waste has considerably increased in the last decades and markets for some waste streams have become more and more globalised. In 2016, more than 200 million tonnes of waste were traded across international borders, four times more than the amount traded in 1992. In value, this represented around 100 billion US dollars. Metals, papers, plastics and minerals make out the majority of the wastes traded internationally, in both quantitative and financial terms.

The destination countries for the trade in waste have also changed over the past two decades. In the 1990s, more than 80% of internationally traded waste was imported by developed countries (EU Member States or other OECD Member Countries). Since then, the export of waste from developed countries to developing countries has considerably increased. China became the main market for waste streams exported by OECD countries and the decision taken in 2018 by the Chinese authorities to restrict or ban the import of a large number of waste streams (plastic and paper waste especially) represented a major change in the global waste market, which has important repercussions for internal trade in wastes. In this context, it is important to stress that it is not allowed to export hazardous wastes to non-OECD countries, while the export of non-hazardous ('green-listed') wastes to non-OECD countries is allowed in certain cases, depending on the destination country and the specific waste involved.

Having said that, concerns remain in relation to:

- Ensuring the environmentally sound management of wastes exported from developed to developing countries and making sure that the same strict standards that are applied in the EU for waste management are applied in countries that are treating wastes exported from the EU; and
- Recovering the economic value of waste by providing a robust and integrated single market for secondary raw materials and by-products within the EU.

With the above in mind, the Commission is of the view that the EU should stop exporting its waste challenges outside of the EU. In particular, exports of waste that have harmful environmental and health impacts in third countries or can be treated domestically within the EU, should be restricted, e.g. by focusing on countries of destination, problematic waste streams, types of waste operations that are source of concern.

In order to pursue this policy objective, the following measures could be undertaken. For each measure,

please indicate your level of support and the impacts you foresee.

2A	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Introduce a ban on exports to non-EU countries of all waste.			X				X	
Introduce a ban on export of all waste to all <b>non-EU countries</b> , with the exception of export of greenlisted waste to countries which (i) notify the Commission that they want to be able to import waste from the EU and (ii) demonstrate that they comply with a number of criteria designed to ensure that the waste will be dealt with in an environmentally sound manner. The list of countries could be set up and updated regularly by the Commission through delegated /implementing acts.			X			X		
Introduce a ban on export of all waste to <b>all non-EU, non-OECD countries</b> , with the exemption of export of green-listed to countries which (i) notify the Commission that they want to be able to import waste from the EU and (ii) demonstrate that they comply with a number of criteria designed to ensure that the waste will be dealt with in an environmentally sound manner. The list of countries could be set up and updated regularly by the Commission through delegated /implementing acts.			X			X		
Require that the prior informed notification and consent procedure applies for the export of greenlisted wastes to non-OECD countries outside the EU.			X				X	
Revisit the current legal regime defining the right to export green listed waste to non-OECD countries, as set out in Art. 37 of the WSR and Regulation (EC) 1418 /2007: maintain the thrust of art. 37, but ensure updated information can be provided in a more flexible and less resource intensive way, e.g. via an interactive web platform rather than through a delegated act.	X							X
Maintain the current rules on both hazardous and greenlisted waste exports to third countries and focus on stronger enforcement measures			X			X		
Specifically for EU export to other OECD countries: review the current OECD framework governing transboundary movements of waste, to assess if it is the most adequate, when it comes to regulating such trade within the OECD with a view to managing wastes in an environmentally sound manner and in light of the EU Circular Economy approach.			X				X	

2A	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Work on the Basel Convention: e. g. consider the inclusion of additional waste streams in the Convention, reinforce the Convention as regards Environmentally Sound Management or even Circular Economy aspects like lifecycle approach policy.			X					X
<p>Levels of support:</p> <ul style="list-style-type: none"> <li>++ = Fully</li> <li>+ = To a large extend</li> <li>+/- = Only to some extend</li> <li>-- = Not at all</li> <li>NOp = Do not know / no opinion</li> </ul>	<p>Expected impacts:</p> <ul style="list-style-type: none"> <li>¬E The proposed measure is ineffective: it does not achieve its intended purpose.</li> <li>E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits.</li> <li>E&amp;P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.</li> </ul>							



2A	Level of support					Expected impacts		
	++	+	+/-	--	NOp	-E	E→P	E&P
<p>Explanatory notes:</p> <ul style="list-style-type: none"> <li>With regard to the 1st measure we believe that the objective of re-injecting all recycled EU waste into EU products may prove to be too ambitious. Certainly in the short term, an abrupt ban on the export of easily recyclable waste, such as waste paper, will most likely lead to incineration or even landfill of this waste paper due to a lack of recycling capacity. Furthermore, the waste and recycling industry is mainly driven by the market and financial incentives. If virgin material is more attractive for producers to use, the demand for recyclable materials will remain limited. It is therefore important to strengthen the internal market for secondary materials by investing in high-quality recycling capacity and by setting mandatory requirements for recycled content in products. Economic instruments could also help stimulate the internal market for secondary materials.</li> <li>With regard to the 2nd, 3rd and 5th measures we would like to reiterate our proposal to replace Regulation (EC) No. 1418/2007 with a managed look-up list, for example on a Commission web page, which is easier to update and therefore more appropriate to reflect the actual conditions imposed by the importing third countries. Moreover, amendments to EU regulations under international law are not automatically legally binding on countries outside the EU. On the other hand, an import ban can indeed be legally binding on exporting EU countries, even if it is not included in EU regulations.</li> <li>With regard to the 2nd, 3rd, 4th and 6th measures, we refer to our previous comment that the guaranteeing of and sound safeguards for an environmentally sound processing of the exported waste is a crucial precondition.</li> <li>Regarding the 4th measure, we believe that the potential effectiveness of this measure is severely hampered by the possibility that green-listed waste is first shipped to OECD countries and subsequently transferred to non-OECD countries.</li> <li>We believe that some of the proposed measures will lead to the desired improvements in the effectiveness of the WSR. For example, a continuation of the status quo, as suggested in the sixth measure, will lead to a continuation of the existing backlog of Regulation (EC) No 1418/2007 on the actual conditions imposed by the importing third countries.</li> <li>The proposed 7th and 8th measures would both improve the quality of a level playing field for the wastes concerned. The real challenge is to reach the consensus needed to adopt the necessary amendments in the existing agreements.</li> </ul>								

## 2B Verify environmentally sound management of waste exported outside the EU

In cases of exports of waste outside the Union, the actors in the exporting country have to ensure that the waste is shipped and managed in accordance with human health and environmental protection standards that are broadly equivalent to standards established in EU legislation. It proves to be a challenge for competent authorities and enforcement agents of the EU Member States to verify that waste exported outside the EU is managed in an environmentally sound management after they have been exported.

Do you agree that this is a policy objective that a review of the WSR should seek to address?

X Fully

In order to pursue this policy objective, the following measures could be undertaken. For each measure,

please indicate your level of support and the impacts you foresee.

2B	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Clarify what the EU considers as the environmentally sound management of waste, by including additional provisions on this point in the regulation or in implementing acts		X						X
Consider the establishment of an EU agency or equivalent body designed to inspect and certify that waste management facilities in 3rd countries processing waste imported from the EU comply with EU requirements on the environmentally sound management" of waste.		X						X
Introduce in the WSR or in a guidance document more detailed and stricter conditions governing the export of waste outside the EU (notably laying down more precisely what the provisions on "human health and environmental protection standards broadly equivalent to EU standards" means).		X						X
<b>Levels of support:</b> ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion	<b>Expected impacts:</b> ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							
<b>Explanatory notes:</b> <ul style="list-style-type: none"> <li>With regard to the 1st measure, this clarification could be achieved by explicitly relating waste streams to EU Best Available Techniques Reference Documents (BREFs), although the real challenge would be enforcement, especially in a non-EU importing country. A second challenge is to keep the BREFs updated.</li> <li>The proposed second measure would indeed provide a structure for obtaining and disseminating desired information to the competent authorities of the Member States. However, Member States must remain closely involved in fulfilling their responsibilities for the environmentally sound management of their wastes. This EU agency could also support Member States by providing a digital database for notifications and licensed recycling facilities inside and outside the EU. There is a great need for digital access to European and non-European data on notifications, permits and licensed waste facilities.</li> </ul>								

### 2C Better classify shipped waste as hazardous or mixed/ contaminated when exporting waste from the EU

The lack of a common interpretation of relevant provisions and procedures in the WSR leads to disputes between Member States and third countries, in addition to conflicts between Member States treated previously. These range from different appreciations of quality levels to divergence in waste classification. Potential measures to improve classification of waste have been presented in 1C above and are also relevant here. Please refer to section 1C above.

Do you agree that this is a policy objective that a review of the WSR should seek to address?

X Fully

In order to pursue this policy objective, the following measures could be undertaken. For each measure, please indicate your level of support and the impacts you foresee.

2C	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
The EU should make additional efforts in the context of multilateral agreements to further clarify the matter regarding how disputes between Member States and other Parties are settled on whether a commodity is a waste or not, or whether a waste is hazardous		X						X
Develop /support the development of guidance to foster a common interpretation across the EU Member States and third Parties on how to deal with disagreements between Member States and third Parties on whether a commodity is waste or not, or whether a waste is hazardous or not.		X						X
<b>Levels of support:</b> ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion	<b>Expected impacts:</b> ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							
<b>Explanatory notes:</b> <ul style="list-style-type: none"> <li>In our opinion, the crux of the matter is that waste should be recycled at the highest possible quality level and that exports should be prevented of wastes, which could exceed an importing country's ability to manage this waste at the desired quality level. The emergence of a dispute between EU Member State and third party can be seen as a warning that in this case this desired quality level is unlikely to be achieved and appropriate action should be taken subsequently.</li> </ul>								

What additional EU level measure(s), if any, would you recommend to pursue this second policy objective "Restrict the export of EU waste to third countries"?

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- The presence of sufficient processing capacity is the primary condition for any restriction on the export of waste. Of course, lacking capacity can never be an excuse to export any of our environmental challenges to countries that are likely to be even less able to deal with them.
- Some third countries have restrictions on import of certain second hand products. WSR Article 36, section 1f, only speaks about a waste ban, this article should be extended with other materials on which a ban applies.

- To support compliance of waste shipments, import requirements of countries of destination should be implemented in the EU more effectively. For example, requirements such as the import prohibition of vehicles older than 5 year or requirements for second hand equipment. At this moment the Regulation (EC) No 1418/2007 is not used in a pro active manner by third countries to indicate this. Many countries have not responded or have not included this in their response. Maybe a EU agency could take a more elaborate or pro active approach in this.

What impacts (benefits, risks, costs) of any of the measures proposed above would you like to flag to the Commission? Please substantiate your statement with quantitative data as much as possible. You can add information by using the option of attaching a document to your response (see end of survey)

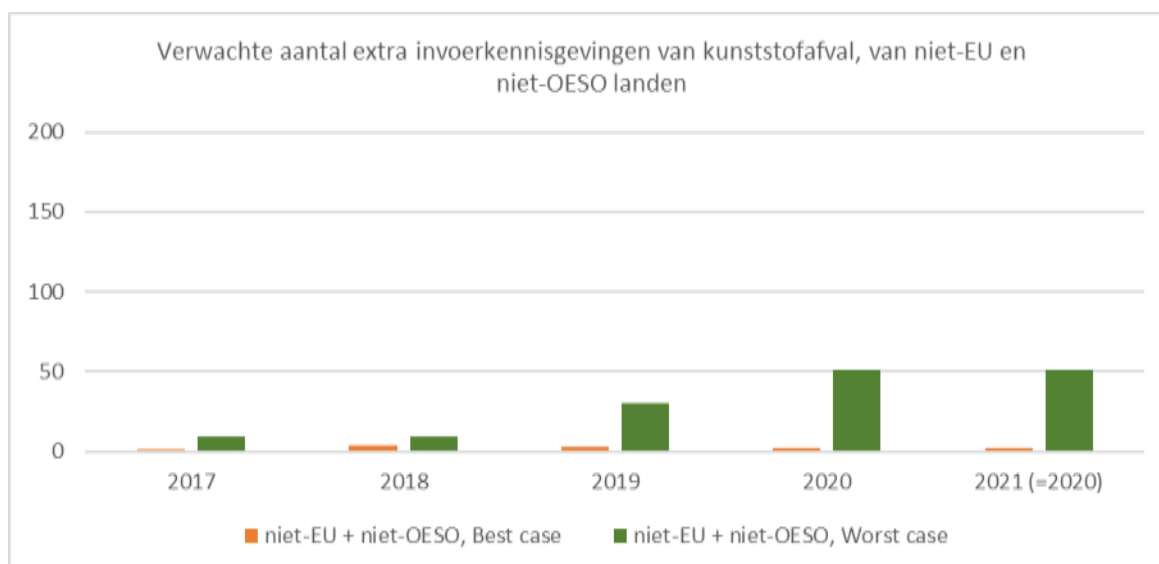
1000 character(s) maximum

Amendments to the European regulation can lead to a significant shift in the workload for the competent authorities. Adequate understanding of the expected impact and support for Member States is recommended.

Recent developments in the transport of plastic waste, more specifically the implementation of de COP Decision BC-14/12 of the Basel Convention, are expected to lead to a significant increase in WSR notifications in the Netherlands.

The two diagrams below provide an estimate of the possible impact of this implementation in a best case (minimal increase after implementation in 2021) and a worst case scenario. The values for the years 2017, 2018 and 2019 are derived from the administration of six largest exporters of (now) green listed plastic waste (B3010) , but have been reassessed according to an expected implementation of this COP Decision. The real number of notifications received by the Netherlands for plastic waste B3010, due to Regulation (EC) 1418/2007 (third country regulation) is below 10 each year. The values for the years 2020 and 2021 are quite uncertain because it is not clear how the dynamic market will respond to this change.

The first diagram below shows the best and worst case scenario for the additional notifications for exports of plastic waste from the Netherlands to third countries (outside the EU and outside the OECD). The second diagram shows the expected increase in import notifications from third countries to the Netherlands.



### 3- Third policy objective: Strengthen the enforcement of the Waste Shipment Regulation's provisions

Further strengthen the WSR's provisions on enforcement and inspections and strengthen cooperation across the EU and with international partners. The persistence of illegal waste shipments is inter alia due to the fact that competent authorities in Member States often lack comparable resources, that Member States do not cooperate sufficiently and that enforcement initiatives that take place on a national or regional level are often not prioritized nor coordinated across borders. Illegal shipments find the path of least resistance to get through or leave the European Union.

Sustained and improved enforcement efforts are vital in this context, including through targeted inspections and controls, deterrent penalties, and by tackling understaffing. These issues are under the responsibility of Member States in the first place. In recent years, important EU initiatives have nevertheless been taken in this field, such as the revision of the WSR in 2016 (which aimed at reinforcing inspections on illegal

shipments of waste) and the strengthening of EU policy and actions against environmental crime. Despite this, there still is ample scope to reinforce an EU integrated approach to combat illegal shipments of waste. Measures to assess may include ensuring increased cooperation between competent authorities, a harmonised application of procedures, including related timeframes and clear enforcement deadlines, as well as improved cooperation with third countries.

In order to pursue this policy objective, the following measures could be undertaken. For each measure, please indicate your level of support and the impacts you foresee.

3	Level of support					Expected impacts		
	++	+	+/-	--	NOp	¬E	E¬P	E&P
Increase the involvement and capacity of EU bodies (e.g. Europol, OLAF) to support the control and enforcement actions of Member States against illegal shipment of waste or against illegal treatment of legally shipped waste	X							X
Establish through the WSR a forum, composed of law enforcement and inspection agencies of the EU MS and the Commission, and dedicated to: exchange information, share experiences, set out EU priorities, cooperate and promote joint actions on the fight against illegal waste shipment. This could take then the form of an information exchange group or of an expert group.	X							X
Improve /specify reporting requirements for Member States regarding enforcement staffing and actions		X						X
Improve existing guidance and develop additional guidance on implementation and enforcement issues.		X						X
Actions towards third countries to improve enforcement: support to projects and cooperation at bilateral, regional, and global levels, notably through the Basel Convention, World Customs Organisation, UN office on Drugs and Crime, Interpol...	X							X
<b>Levels of support:</b> ++ = Fully + = To a large extend +/- = Only to some extend -- = Not at all NOp = Do not know / no opinion	<b>Expected impacts:</b> ¬E The proposed measure is ineffective: it does not achieve its intended purpose. E¬P The proposed measure is effective, but it is disproportionate: it achieves its intended purpose, but the costs are larger than the benefits. E&P The proposed measure is effective and proportionate: it achieves its intended purpose, with benefits for society above costs, and costs and risks for me / my organisation / my constituency are acceptable.							

3	Level of support					Expected impacts		
	++	+	+/-	--	NOp	→E	E→P	E&P
<p>Explanatory notes:</p> <ul style="list-style-type: none"> <li>It is highly desirable to strengthen cooperation between organisations and international enforcement. Enforcement and compliance authorities need support from both their enforcement partners within their countries as their counterparts outside their countries. Partner organisations can contribute by sharing enforcement data and expertise and benefit from additional enforcement activities and legal powers.</li> <li>The proposed measures would indeed improve the existing structure (e.g. IMPEL-TFS) for obtaining and disseminating desired information to the competent authorities of the Member States. Of course, Member States will stay responsible for the environmentally sound management of their wastes.</li> </ul>								

What additional EU level measure(s), if any, would you recommend to pursue the third policy objective "Strengthen the enforcement of the Waste Shipment Regulation's provisions"?

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What impacts (benefits, risks, costs) of any of the measures proposed above would you like to flag to the Commission? Please substantiate your statement with quantitative data as much as possible. You can add information by using the option of attaching a document to your response (see end of survey)

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## Follow-up interviews and additional information

Would you be interested and willing to take part in follow-up interviews which are being undertaken with select stakeholders to gather more information and views about the WSR?

Yes (both regulatory as well as enforcement authorities)

Do you have any additional information or views on the WSR not provided above that you would like to share?

Please provide this below or uploading a policy document.

1000 character(s) maximum

Parallel to responding online to this questionnaire we will upload this non-paper. In this paper, we share our reasoning behind selecting and ticking the boxes by adding "explanatory notes" to almost all the checkboxes provided.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Thank you for your participation. You can also provide any additional evidence directly at

[ENV-WASTE-SHIPMENTS@ec.europa.eu](mailto:ENV-WASTE-SHIPMENTS@ec.europa.eu)