

Towards a circular vision for the revision of the Waste Shipment Regulation



European
Automobile
Manufacturers
Association



When the Basel Convention was negotiated and concluded at the end of the 1980's, it reacted to the global needs of that time. Its achievements were significant and urgently required. It established control mechanisms against illegal shipments and shipments to facilities that operate at substandard level. These operations are not only detrimental to public health and the environment, they also undercut and skew the level playing field of fully compliant, innovative and competitive operators.

30 years later, the global reality has unavoidably shifted and the needs have changed. Waste, and even hazardous waste, can increasingly be turned into a resource. Where the Basel Convention sought to control disposal activities, the circular economy seeks to reduce and phase out waste disposal operations altogether. Today, we try to make better use of resources at product level and prevent secondary materials from being prematurely wasted. The world's resources are not endless, and we cannot afford to waste valuable raw materials any longer. Our globe urgently needs a consistent and fully functioning circular economy to make good on its promise of SDG12 - Responsible Consumption and Production.

We see an opportunity for the EU to lead the way with a revision of the Waste Shipment Regulation.

We invite the EU to change paradigms and to consider whether some elements of the waste shipment regulation still reflect linear thinking. This is a major opportunity to support the uptake of the circular economy. Since the adoption of the Basel Convention, the EU has successfully created a Single Market for Goods and Services. Primary materials and products can flow easily and without controls across intra-EU borders. However, the Single Market for the Circular Economy is unfinished. The free movement of primary, but not secondary raw materials, was fully justified when the traditional method of waste treatment was disposal – but the times have changed. Some materials¹ have been fully recyclable for a while, but today more and more waste materials are considered a resource. They should be re-introduced into the economy to reduce the environmental damage of extractive processes and help stem the release of embedded carbon.

Waste prevention, product and material lifetime extension and reuse should play a pivotal role, followed by high-level and multiple recycling. The technology for many complex waste materials is becoming available to achieve this and circular innovations are increasingly being deployed. EU waste legislation should be adapted to make sure that:

¹ E.g. metals, glass, paper

- Used products are considered a high value resource and only classified as waste if value retention strategies² are not possible.
- Waste management activities aimed at reintroducing recycled material into a circular economy are scaled up.

Achieving more circularity in Europe will increase the level of environmental protection, not undermine it.

We believe that to ‘re-circulate’³ resources through the economy in high quality processes helps the environment – if done under the right system. The focus of the enforcement authorities could shift from administration for repeat notifications to policing and cracking down on illegal waste shipments. Shipping end-of-life/use products, harvested components and secondary raw material to European high-quality recyclers and material processors will increase output yields suitable to be returned into supply chains, reduce downcycling and will lead to a competitive market for secondary raw materials and European material security. Substandard recycling solutions are expected to be discouraged. The environment would benefit from more recycling at higher standards, as well as increased repair, refurbishment and remanufacturing.⁴ Circular supply chains also promise to reduce supply chain problems associated with the mining of some virgin material⁵ – in particular, conflict minerals.

Investment in circular economy infrastructure and activities is hindered by the lack of a level playing field for secondary products and materials. There is still capacity in existing facilities across the EU, but the potential is not currently leveraged. We believe the impact of a comprehensive reform could unlock more job potentials^{6 7} in the spirit of a “just transition”. Businesses transitioning to circular ways of working would benefit from administrative simplifications, more agile supply chains and access to local secondary raw materials. As more waste streams are increasingly seen as a resource, they will be traded in even more closed loops and supply chains will be adapted to use more secondary raw materials. At the same time, the increased uptake of producer responsibility schemes, repair services, remanufacturing and refurbishment will lead to new reverse logistics chains. Producers, wholesalers and retail companies will increasingly take back their products and handle their own repair, refurbishment, remanufacturing at centralised or de-centralised processing facilities. Being able to direct end-of-life products to a high-tech recycler becomes more crucial.

Today, the outdated legal framework for waste cannot keep up with the new circular economy business solutions, and confronts circular economy leaders with legal uncertainty, high costs of compliance and inconsistent application of rules. We would like to offer, in the following, a vision on how the emerging trend of environmental protection via the circular economy could be mainstreamed into the Waste Shipment Regulation, without foregoing the level of environmental protection offered by the current regulation.

We believe that the EU’s long-term vision should be the creation of a single market for secondary products and materials that would permanently substitute the concept of waste with “resource”. A control system should be established that ensures that such products and materials can flow freely among high-performing, quality-controlled actors in the pursuit of the circular economy. At the same time, illegal export of waste to non-OECD countries with all its negative environmental and social consequences needs to be fought consistently.

² UN Environment/International Resource Panel, Redefining Value – The Manufacturing Revolution, 2019 <https://www.resourcepanel.org/file/1100/download?token=Uy6hwmQj>

³ OECD, International Trade and the Transition to a Circular Economy, 2018 <https://www.oecd.org/environment/waste/policy-highlights-international-trade-and-the-transition-to-a-circular-economy.pdf>

⁴ UN Environment/International Resource Panel, Mineral Resource Governance in the 21st Century, 2018 <https://www.resourcepanel.org/file/1174/download?token=Ns1cHdkf>

⁵ UN Environment/International Resource Panel, Global Resources Outlook 2019, Natural Resources for the future we want, 2019 <https://www.resourcepanel.org/file/1172/download?token=muaePxOQ>

⁶ McKinsey, Growth within: A circular economy vision for a competitive Europe, 2015 <https://www.mckinsey.com/business-functions/sustainability/our-insights/growth-within-a-circular-economy-vision-for-a-competitive-europe>

⁷ International Institute for Sustainable Development, Estimating Employment Effects of the Circular Economy, 2018 <https://www.iisd.org/sites/default/files/publications/employment-effects-circular-economy.pdf>

The EU should explore a number of potential complementary policy options to this end. The upcoming impact assessment would ideally cover the following concepts:

Introducing a new Circular Economy procedure in the Waste Shipment Regulation (WSR).

A new procedure should be developed and introduced in the WSR aimed at allowing waste resources to move more freely in Europe, subject to strong quality conditions. Such a new procedure could either be a new process, comparable to the green and amber procedures, or could be integrated in a reform of certain elements of the regulation (e.g. fast-track procedure). Facilities need to fulfill all of the following, consecutive conditions to qualify for the simplified/new procedure that does not require pre-consent:

- A) Waste is shipped to re-introduce it into the Circular Economy. Measures are put in place to ensure transparency (e.g. digital platform, tracing options to monitor movement) of the waste shipment .
- B) Valid authorization⁸ by the competent authority of the destination to treat, sort or otherwise handle the waste that is to be received.
- C) Waste shipments are directed only to high-performing, environmentally superior receiving facilities that hold appropriate certification that they operate to recognized European standards⁹ to prevent exports to facilities with low health and safety standards.

“Conditions of equivalence” and minimum quality standards for treatment based on CENELEC standards (e.g. CENELEC 50625 for WEEE) are currently discussed in the European Commission and should be a basis for further discussions.

A third-party certification of the treatment facility could validate and control the treatment conditions.

It would be important that facilities achieving this high level are automatically eligible for the circular economy procedure rather than having to be recognised in a separate process.

Waste is shipped only to a restricted number of high-quality facilities, hence there is no need for pre-approval. The system creates transparency with a tacit consent, as well as a reporting mechanism - similar to the current “pre-consented facilities” under the fast-track notification system.

It should be noted that repair, refurbishment and remanufacturing activities (as the innermost loops of a circular economy) are out of scope of the WSR (in line with Correspondent Guidelines Nr.9 and Nr.1, Annex VI WEEE), and one needs to avoid legal uncertainty for actors that extend the life of products and prevent the creation of premature waste. In addition, one could consider solutions for waste shipments within the EU that are harmless to the environment because of the controlled circumstance of their movement. Examples could be waste that does not change ownership; mail-in waste collections, waste that arose from collection activities like trade-in, servitization business models, etc.

Introducing changes within the current WSR framework to simplify movements of secondary raw materials.

Furthermore, additional comprehensive changes can deliver quick relief for some of the most common points of concern with the current regime:

- A) More flexible notifications, allowing for minor changes, enabling actors to alter export permits in a simplified manner without re-applying for the notification, e.g. the selection of another carrier, shipment to a different facility of the same company, change of the shipment dates, allowances for temporary storage.

⁸ In accordance with Art. 23, 24 of Directive 2008/98/EC on waste

⁹ e.g., WEEELABEX certified, CENELEC 50625, EMAS certified, EN 50625, ISO 14001 certified, or others

- B) Transit countries to be excluded from the notification system for hazardous waste or apply tacit consent consistently.
- C) Ensure Member States' mutual recognition of registrations of carriers of hazardous waste. Registration is mandatory based on the Waste Framework Directive in all countries in which they drive, which is exceedingly prohibitive and a burdensome requirement for carrier companies.
- D) Redrafting rules on financial guarantees to reduce the amount of frozen assets. Allow for an insurance-type of financial guarantee (rather than blocked escrow accounts) across Europe.
- E) Take measures to facilitate R&D and innovation for circularity: Revisit the 25kg exemption for laboratory assessments (Art 3(4)), to include recycling innovation and R&D as qualifying conditions. Expand the exemption from 25kg to 1-2 tons, and introduce an exemption from the notification procedure for testing samples of up to 15 tons.
- F) Introduction of new green listed codes for waste that does not pose any risk for the environment. Today, different Member States interpret the classification of non-listed waste differently. Enable the European Commission to make more consistent use of its authority to amend the waste classifications by delegated acts (pursuant to Art 58) to systematically identify and resolve inconsistent waste classifications throughout the EU on a (bi)annual basis, e.g. for mixed waste streams.
- G) When waste is exported from the EU, it shall count towards the recycling targets provided the exporter can prove that the recycling of waste outside the EU took place in conditions that are equivalent to the relevant EU regulatory environmental requirements.

If the European Commission wishes to accelerate the circular economy, we believe that the revision of the WSR offers a unique opportunity. We would like to encourage the European Commission to impact assess reforms such as those outlined in this paper, instead of simply evaluating incremental improvements of the regulation.

About the Co-signatories

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3 trillion in 2019, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

APPLiA - Home Appliance Europe represents home appliance manufacturers from across Europe. By promoting innovative, sustainable policies and solutions for EU homes, APPLiA has helped build the sector into an economic powerhouse, with an annual turnover of EUR 50 billion, investing over EUR 1.4 billion in R&D activities and creating nearly 1 million jobs.

APRA is the only global association that has been representing the interests of automotive remanufacturing companies since 1941. APRA is well-known in Europe as APRA Europe, which is based in Brussels, Belgium. The association's 120 European members (out of a total of approx. 600 members worldwide) are primarily tier 1 suppliers and independent remanufacturers. Together with other partners, APRA Europe represents approx. two-thirds of all employees in the European automotive remanufacturing industry. APRA Europe promotes remanufacturing as an integral part of the circular economy and represents the interests of the industry, including free trade, an independent aftermarket and legal certainty. Members benefit from the organisation's close integration with other industry associations, receiving guidance and support for business matters. APRA Europe also holds its own conferences and other events to bring together supply and demand – for the benefit of each. APRA is the voice of remanufacturing since 1941. Further information: www.apra.org/europe

ACEA represents the 15 Europe-based car, van, truck and bus manufacturers: BMW Group, DAF Trucks, Daimler, Fiat Chrysler Automobiles, Ford of Europe, Hyundai Motor Europe, Iveco, Jaguar Land Rover, Opel Group, PSA Group, Renault Group, Toyota Motor Europe, Volkswagen Group, Volvo Cars, and Volvo Group. www.acea.be

CLEPA represents over 3.000 companies supplying state-of-the-art components and innovative technology for safe, smart and sustainable mobility, investing over 25 billion euros yearly in research and development. Automotive suppliers in Europe employ overall nearly five million people across the continent.

COCIR is the European Trade Association representing the medical imaging, radiotherapy, health ICT and electromedical industries. Founded in 1959, COCIR is a non-profit association headquartered in Brussels (Belgium) with a China Desk based in Beijing since 2007. COCIR is unique as it brings together the healthcare, IT and telecommunications industries. www.cocir.org

Conseil Européen de Remanufacture (CER) (European Remanufacturing Council): is based in Brussels and represents small and large businesses from all remanufactured product sectors. Our membership includes OEM companies, approved third party remanufacturers, specialist independent SMEs and trade associations. Our ambition is to triple the sales of Europe's remanufacturing sector to £100 billion by 2030. The European Remanufacturing Council is managed by Oakdene Hollins. <https://www.remancouncil.eu/>

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 70 Corporate Members and 40 National Trade Associations from across Europe: www.digitaleurope.org

EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 31 countries and 5.4 million companies, both leading multinational retailers such as Carrefour, Ikea, Metro and Tesco, and many small family operations. Retail and wholesale provide a link between producers and 500 million European consumers over a billion times a day. It generates 1 in 7 jobs, providing a varied career for 29 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector. www.eurometaux.eu

Eurometaux, the European non-ferrous metals association, represents the broad non-ferrous metals supply chain – from mining and refining to processing, fabrication and recycling. Europe's non-ferrous metals industry has an annual turnover of €120bn, and creates 500,000 direct jobs and over 3 million indirect jobs in Europe. www.eurometaux.eu