

Public Consultation on the Functioning of Waste Markets

Public Consultation on the functioning of Waste Markets in the European Union

Part 1 - Identification of stakeholder or expert

Please enter your country of residence/establishment

- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
- LUXEMBOURG
- MAGYARORSZÁG
- MALTA
- NEDERLAND
- OTHER COUNTRY (non-EU)
- POLSKA
- PORTUGAL
- ROMÂNIA
- SLOVENIJA
- SLOVENSKO
- SUOMI / FINLAND
- SVERIGE
- UNITED KINGDOM
- ÖSTERREICH
- ČESKÁ REPUBLIKA
- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΎΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country of your residence/establishment:

Your name or organisation:

Eurometaux

Please provide your EU Transparency Register ID number (if you have one)

61650796093-48

If your organisation is not registered, you can register now (please see the introduction to this consultation under 'How to submit your contribution').

Can your reply be published? Please tick the box of your choice.

- With your name or that of your organisation
- Anonymously

For information on how your personal data and contribution will be dealt with, please refer to the privacy statement in the introduction to this consultation.

I am replying to this consultation as...

- an individual
- a private enterprise
- a non-governmental organisation (NGO)
- an organisation or association (other than NGO)
- a government or public authority
- a European institution or agency
- an academic/research institute
- other

If you are replying on behalf of a company, please specify in which of the following markets you predominantly operate:

- The whole EU market
- In one or several Member States, please indicate which one in the list below:
- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
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- ΚΥΠΡΟΣ (ΚΎΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country in which you predominantly operate:

If you are replying on behalf of a company, please indicate the number of its employees:

- Between 1 and 49
- Between 50 and 249
- 250 and more

Part 2 - Questions

A. Identification of the main perceived regulatory failures

For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

Transport of waste within the EU

The trade of by-products, waste and end-of-life products to quality recycling facilities must not be hampered. The non-harmonised status of waste and by-products across MS complicates the transport of waste and by-products.

Proposal

- Harmonised definitions of waste and by-products across MS.
- Facilitate EU trade for recycling of by-products, waste and EoL products, whether intra-Europe or imported into Europe through the use of the Waste Shipment Regulation's "pre-consented recovery facilities" status. This would facilitate the transport of waste including transit. For waste imported in the EU from an OECD country notifications should be valid three years if the waste is destined to a recovery facility that is pre-consented. The improved status would be

valid for three years (instead of one) and would allow notification electronically and the possibility to transport the waste upon notification. The status should be linked to a registration number that would facilitate notification and tracking by authorities.

- Lower administrative burdens linked to the transport of waste within the EU e.g. through electronic information exchange (notification procedure).

Implementation of waste legislation

There is a lack of cooperation between MS, not enough controls on illegal shipments, incentives, the fines for infringements of waste regulations are often low.

Proposal:

- Increase cooperation between competent authorities (eg through IMPEL)
- Improve controls at borders through some tools such as risk matrix, customs codes for 2nd hand goods, pre-consented recovery facilities status

Chemicals legislation

Chemicals management too often relies on the hazard only, rather than providing a tool with which to achieve effective management of exposure and thus risk. Hazardous metals are used in products to deliver specific functionalities and hence are present in some recycling loops, but this does not automatically mean they provide a risk to the environment or human health during recycling or reuse.

Strictly hazard-based legislative measures on these types of substances will lead to the non-recycling of products that have been in use for long periods and do not create a residual risks for man and environment. Hampering the recycling would be disproportionate, with the environmental and socio-economic benefits of that recycling loop.

Proposal

Recycling: need to consider most appropriate legislative framework to ensure workplace and environment protection

If the risk is limited to the workplace, workplace and permitting requirements are adequate

REACH and CLP, as well as other EHS-related legislation, should not work in isolation, and should consider at an early stage the socio-economic benefits of materials recycling, in order to avoid disproportionate requirements that hinder recycling or make it technically/economically unviable

Leakage of secondary materials to non-EU countries due to lack of level playing field conditions

To guarantee both the proper and efficient recovery of valuable materials from waste and re-introduce them in the economy and to support the competitiveness of the recycling industry, to establish level playing field conditions are needed both in the EU and outside the EU.

Proposal

- Eurometaux supports establishing a mandatory EU certification scheme applicable to some waste streams (e.g. WEEE and batteries), in order to provide the required framework for quality recycling in or outside Europe.

Landfilling and incineration

A progressive landfill ban on recyclable post-consumer goods is desirable, but must be supported by complementary measures to promote quality recycling from collection through to material recovery. Industrial waste is in many cases residual waste, which cannot be recycled or put back on the market.

Incineration should not be considered as equal to recycling. However, in some cases one needs to recognize that material recovery is economically and technically unsound, for example to recover some low-purity plastics that may on the other hand be a very useful mix with metals into a metallurgical process

Codes

The EURAL codes should be used at EU level by all MS (no national codes).

In some cases no appropriate waste code exists (EU/OECD/Basel) for a given waste and hence that waste is considered as amber, requiring notification with prior consent. There should be an extra category for non-hazardous waste which is not classified anywhere to facilitate its recognition as green listed.

Proximity principle

Because not all regions or even MS have facilities able to recycle all metal scrap and EoL products, especially complex ones, it is essential that these waste can be transported to quality treatment facilities elsewhere. Economies of scale are essential to ensure that the costs associated with the recycling of complex end of life products are acceptable.

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

Some non EU countries do not accept the pre-consented facilities “tacit consent” (e.g. Japan) even for transit. And vice versa the Japanese forms are not accepted by some MS in the EU.

Some MS interpret differently the classification of some waste such as end-of-life li-ion batteries. They are green listed in Belgium and subject to notification in Austria.

Some Member states do not accept the REACH registration of mixtures (as a substance/ product) for shipment inside the EU or to non-EU countries. The rule is that a holder of a registration under REACH can import as an importer from outside the EU under his own Registration number for a substances from purchaser.

Germany tends to use its own codes instead of the EURAL codes which leads to less harmonisation of waste codes in the EU.

Problems have been noted for the transport of e-waste from Hungary or Austria through Bavaria due to differences in classification.

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

Waste Shipment Regulation and Waste framework directive

- Lack of harmonised enforcement and interpretation of legislation e.g. what is considered hazardous waste in one MS is green listed in another MS
- Lack of codes corresponding to some waste which leads to the amber listing of waste which are not hazardous
- The definition of waste and end-of-waste can be interpreted differently by the MS. The same applies to by-products whereby some MS have added some criteria. This leads to a non-harmonised status of some waste/by-products for recycling.
- Too heavy administrative burden linked to notification and transit procedures under the WSR
- Proximity principle mis-used
- National definitions and rules hampering the transfer of waste for recycling
- Capital hold up due to delays in shipments and risk of business loss as exporters may decide to choose another facility outside Europe with easier transport procedures - this can have a negative impact on innovation and investments

REACH

- The interface between chemicals and waste legislation should be examined to ensure proper risk management at all stages of a metals/chemicals life cycle without unnecessary burden.

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU? (multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

EU legislation should ensure free and fair trade of raw materials, products and waste. To this end, level playing field conditions must be established for the treatment of waste and valuable materials embedded in products, whether in the EU or outside the EU.

If this is not the case, the valuable part of the EU's waste will be exported, either legally or illegally, with no guarantee of quality treatment, no efficient recovery of materials, and no value creation in Europe. This would also impact on the capacity of EU recycling companies to invest in new processes or expand.

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

See proposals here above that relate to:

- Better enforcement of existing legislation
- Harmonised waste legislation (interpretation, implementation and enforcement) across the EU
- More efficient control to avoid illegal shipments
- Facilitation of trade while ensuring quality treatment (pre-consented recovery facilities)
- Simplification of administrative procedures
- Codes and notification
- Risk-based chemical legislation and appropriate measures (avoid overlap)
- Level playing field conditions
- An open and market related environment for collection and recycling (independent from manufacturer obligation for take back and recycling) for our industry.

To strengthen the pre-consented recovery facility process, we propose the following measures:

- Implement minimum criteria to recovery facilities applying for pre-consented status (environmental, health, safety and technical performance)
- Allow immediate shipments of waste from and to pre-consented facilities after the competent authorities have been notified
- Implement a REGISTRATION NUMBER to pre-consented facilities to approve and identify "fast-track" procedures during notification, even through transit countries, and easily track shipments
- Implement an electronic system rather than "Mitten notification/consent supported through a web platform to accelerate and harmonize procedures and monitor/track shipments
- extend the validity period of 3 years for general notifications for pre-consented facilities

When there is no appropriate waste code {EU/OECD/BaseQ available in annex IVA, Annex 1118, IV or IV of EC Regulation 1013/06-> such waste needs a notification with prior written consent (stipulated in Article 3 of Regulation 1013/2006), making the procedure burdensome for waste that is non-hazardous. Proposal to add a category in the procedure to identify hazardous and non-hazardous waste "not mentioned elsewhere in the list" so that non-hazardous waste with no appropriate waste code may be treated as "green listed" waste, and hazardous waste with no appropriate waste code may be treated under the proposed "fast track" pre-consented recovery facilities criteria

8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

More resources are needed to allow for efficient inspection and control.

Better data are needed to monitor shipments, trade, recycling activities.

B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

between 0 and 5

5

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

between 0 and 5

4

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

between 0 and 5

3

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

between 0 and 5

4

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

between 0 and 5

4

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

between 0 and 5

3

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

between 0 and 5

3

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

between 0 and 5

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

between 0 and 5

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

between 0 and 5

k. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

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11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)



C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation

12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

between 0 and 5

b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

between 0 and 5

d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

between 0 and 5

e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

between 0 and 5

f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

between 0 and 5

g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

between 0 and 5

3

h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

between 0 and 5

5

i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

2

j. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

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14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

It is difficult to assess especially with regard to the amounts lost (waste shipped to non-EU facilities due to the EU constraints or challenges).

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

10 a.
10 B.
10 e.

15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

between 0 and 3

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

b. Less recycling

between 0 and 3

c. Less recovery, including energy recovery

between 0 and 3

d. Less environmentally sound management of waste

between 0 and 3

e. Less resource efficiency

between 0 and 3

f. Lack of market access

between 0 and 3

g. Other

between 0 and 3

If relevant, please provide additional information in relation to your above reply.

D. Final questions

17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

See above:

Different (multiple) waste organizational structures and competent authorities responsibility across European Countries

For example:

Member State A : Federal States' waste responsibility represents a structure that complicates waste Business and movement. Different opinions, different Speed of execution.

Member State B: Waste responsibility is with multiple regional/district authorities posing a big Impact on waste movements even within the Member state.

- A recycling facility in one member state is fully licensed and even classified as a "pre-authorized facility". The competent authority of another Member State does not share this view and refuses a waste shipment for recycling from one Member State to the other Member State.

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

See above proposals
Part 3 - Follow-up activities

Part 3 – Follow-up activities

20. Would you be interested in participating in a stakeholder meeting on these issues that will be held on 12th November 2015?

- Yes, I would like to attend.
- No, I'm not interested.

My contact details are (optional):

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