

Annex III to the Revised Final Report of the
study for the Update of Regulation (EC) 1418/2007

Synthesis of views from stakeholders on the trade in non-hazardous
waste and its regulation

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This Annex presents the results of Task 2 of the project. The aim of the task was to collect a wide range of perspectives from stakeholder experts and from national authorities in non-EU non-OECD countries, to inform the European Commission on waste shipments and to feed into the Commission's review of Regulation (EC) 1013/2006 on waste shipments.

These results are based on interviews with experts in 26 bodies in the waste management sector, in logistics and trade companies, in the paper and metal sectors, in international organizations, in non-governmental organizations (NGOs), and in non-EU, non-OECD countries. These experts were interviewed over the phone between mid-June and mid-October 2019 to gather their views on the international trade in non-hazardous waste and on its regulation.

The stakeholder views are grouped here in two main sections: the first covers general views on the international waste trade, including comments on the main destination countries, and the second summarises views concerning current EU requirements on exports of 'green-listed' waste, including the use of Commission Regulation (EC) 1418/2007. It should be noted that for the international market in non-hazardous waste is evolving rapidly: consequently, some information presented in the first section may not be up to date by the time of publication.

1. The international trade in green-listed waste

A fast-evolving regulatory environment

According to experts in the waste management and trade sectors, trade in green-listed waste is currently characterised by a situation of high volatility of prices and high uncertainty, especially in the fields of paper/cardboard waste and plastic waste.

The import restrictions put in place in China since 2018 have affected South-East Asian countries, which have received increased imports and in turn have been strengthening their import rules and/or controls of waste shipments. This has resulted in an overall decrease in the quantity and an increase in the quality of waste exported to non-EU, non-OECD countries. According to an expert from a global logistics company, about 15 million tons of plastic waste were traded globally in 2016; the level has fallen to 5 million tons per year at present (in 2019). At the same time, interviewees from both an international organisation and a developing country noted that Chinese firms are investing in recycling facilities in both OECD and developing countries. Moreover, further restrictions on waste imports are expected in China.

While exporters of EU waste search for new importing countries, there is a risk of an oversupply of waste in the EU, which could result in a significant impact on prices. For example, there are currently about 8-10 million tons of surplus of paper/cardboard waste in the EU. According to an expert from a waste management company, this situation may result in greater use of energy recovery (instead of material recovery) or even an increase in landfilling.

Trade in other green-listed waste (e.g. metal scrap or glass waste) appears to be overall less affected by the recent policy changes in Asia. However, an expert referred to policy changes in Malaysia and Indonesia allowing fewer impurities in imports of these wastes than in the past.

Main importing countries of EU non-hazardous waste shipments

Asia has been the preferred destination of EU waste shipments, with exporters taking advantage of empty shipping containers going back to this region. Freight costs to other continents are generally higher.

Paper/cardboard waste

According to experts from the waste management and trade sectors, the main non-EU non-OECD countries currently importing paper/cardboard waste from the EU are (in alphabetical order) India, Indonesia, Malaysia, Philippines, Taiwan, Thailand and Vietnam. EU exports of paper/cardboard waste to China have fallen drastically (one waste stream that reportedly continues to go to China is unsold newspapers with low levels of other waste). China also used to be a major importer of paper waste from other OECD countries including Japan, Korea, Australia or the United States.

According to stakeholder experts, no major import restrictions for paper have been identified in India or Malaysia for paper waste, while Vietnam has recently adopted restrictions. The situation in Indonesia was uncertain for several months until the country clarified the standards that need to be followed in June 2019: this reform has severely reduced the level of impurities allowed in paper/cardboard waste.

Plastic waste

While China used to be the main importing country for plastic waste, it has radically reduced imports and is now mostly importing recycled plastic granules which do not fall under the definition of waste. The main importing countries for plastic waste are currently Indonesia, Malaysia and Vietnam (and to a lower extent, India and Pakistan). Indonesia's imports of plastic scrap have reportedly increased significantly, especially in 2019 (though customs inspections have as well). There is also evidence that the changes in China have drastically impacted other countries as well – according to one interviewee, imports of plastic wastes in Thailand have increased more than 75% since 2017.

These countries then export recovered plastics to China. Moreover, trading in waste has increased in Southeast Asia. Hong Kong is an important transit country which re-exports in particular to Vietnam. A

share of plastic waste exported to Malaysia have reportedly been re-exported to Thailand as the latter country restricts direct imports from the EU.

According to information reported in interviews with NGO experts, several upcoming bans on plastic waste imports have been announced in South-East Asia: for example, in 2019 in India¹, in 2021 in Malaysia and Thailand and by 2025 in Vietnam. New import restrictions are also expected in Indonesia² (although the timing of the revisions is unclear) and, according to several experts, controls of waste shipments have significantly strengthened in that country (with reports of containers being returned, for example to Australia). Controls have increased in Malaysia as well, but not to the same extent, despite media announcements. Some shipping companies currently refuse to export plastic waste to Vietnam, where import restrictions appear to be based on administrative decisions rather than on national law.

Metal scrap

The main non-EU non-OECD countries importing iron and steel scrap are Egypt, Pakistan, India, Bangladesh, Indonesia and Vietnam. No recent policy changes have been reported for this waste stream.

Other regions

Apart from Egypt, there are currently few EU exports of green-listed waste to Africa. According to one expert in the trade sector, a list prepared by the Environment Agency for England and Wales of suitable destination countries for the recovery of paper waste does not include African countries³. One stakeholder noted that facilities able to recover green-listed waste such as paper/cardboard waste or plastic waste are scarce in French-speaking countries in Africa. One interviewee said that Nigeria could become an importer of plastic waste. Waste is not shipped (legally) to most countries in Southern Africa, as South Africa is the only country in the region with the necessary infrastructure to recover non-hazardous (and hazardous) waste: as a result, South Africa imports non-hazardous from other countries in the region for recycling.

One interviewee noted that many developing countries, including in Africa, ban imports of non-hazardous waste as a practice though their legislation does not specify such bans. In addition, in some developing countries, all waste imports are classified as hazardous.

EU exports of non-hazardous waste also go to the Western Balkans. One expert noted that plastic and paper are the largest waste streams imported in Serbia for recovery. South America does not feature among the main destinations of waste exports either, even if one expert mentioned the possibility of future Chinese investments in the region.

¹ It was announced in the media in March 2019 and is expected to enter into force in August/September 2019 according to experts in the waste management and trade sectors.

² The proposals include an end to the importation of plastic scrap, with only the importation of processed plastic flakes, chips and pellets to be allowed; and refocusing the domestic plastic recycling industry in Indonesia on domestic waste rather than imports. See also:

http://www.env.go.jp/en/recycle/asian_net/Annual_Workshops/2018_PDF/Day2_Session2/29Day2_S2_06_Updated_Indonesia_ANWS2018.pdf

³ A specific reference wasn't provided. The Environment Agency has an online waste export controls tool: <http://apps.environment-agency.gov.uk/waste-import-export/124357.aspx>

Views on international regulation of the waste trade

The recent decision on the status of plastic waste under the Basel Convention⁴ (which will enter into force in 2021) was perceived positively by experts from NGOs and the international recycling industry. This will allow a differentiation between recyclable plastic waste and non-recyclable (or hard to recycle) plastic waste, hence increasing the transparency of trade flows. It should also encourage recycling closer to the source of production and foster employment in the EU.

On the other hand, several experts from the logistics sector said that this change will result in an increase in the complexity of plastic waste trade. The preparation of notification files can take from 4 to 6 months until an approval is granted: these experts felt that it is likely this will result in a reduction of exports of plastic waste from the EU, as only a few companies will be able to manage the notification procedure. Moreover, the importing countries may not have the capacity to deal with notifications.

An expert from the international recycling sector, however, said that this change of status could encourage importing countries to build up their level of competence.

In addition, several experts from the waste management sector stressed the need to specify which requirements will need to be followed and to avoid the risk of unfair competition. Respondents from an international organisation noted that the quality criteria for the waste have not yet been established, and until they are, the situation is uncertain.

Illegal trade

Experts from the international recycling sector said that on average, across all waste streams, about 98% of the current international waste trade is legal. Experts acknowledged, however, that problems are seen for specific waste streams such as unrecyclable plastics.

Several experts from the waste management and trade sectors as well as from national authorities mentioned issues of fraud. For instance, documents accompanying the waste shipments may refer to the wrong classification (e.g. paper waste instead of plastic waste; or plastics instead of plastic waste) or mention a false destination. The issue of corruption in some African countries (e.g. asking for money in exchange of documents) was also mentioned, while in one South East Asian country, large increases in plastic imports were reportedly going to illegal facilities, causing damage to the environment and human health. One respondent from a developing country said that in their case, the documents presented by the trading company to obtain an import authorization mention the company that will be responsible for the waste and its recovery; however, once the waste is in the country, there is no control whether it finally ends there. One respondent from a developing country said that most illegal shipments are easily identified by customs officials.

Economic impacts of the trade

Among the interviewees, most experts involved in the waste management and trade sectors as well as in EU industry consider that trade is overall beneficial, ensuring that resources are distributed and fostering the development of local industries and creating jobs.

All EU experts interviewed highlighted the lack of recycling capacity in the EU to recover all non-hazardous waste collected, in particular paper/carboard, plastic waste and some metal scrap (e.g. copper).

⁴ Basel Convention, 14th Conference of the Parties, Decision BC-14/13: Further actions to address plastic waste under the Basel Convention, May 2019

According to one expert from a waste management company, there are currently limited applications for recovered paper/cardboard waste in the EU, and trade helps to balance and demand.

Experts from the EU industry acknowledged that trade can result in market distortions if importing countries do not respect broadly equivalent environmental requirements.

Interviewees from developing countries highlighted the positive effects of imports on employment, and the fact such waste can be considered a resource; however, several acknowledged that their countries do not always have the facilities to deal with it. One respondent said that there should therefore be more cooperation between developing and developed countries. Another respondent from a developing country also noted that imports are economically beneficial; however, this trade could lead companies to prioritise imports over domestic waste, claiming that local waste has a lower quality.

Another respondent from a developing country said that prior consent procedures were useful to ensure that scrap metal imports do not harm local recycling: in their country, domestic industry can only apply for an importation clearance for scrap metal only if the local sources or collections are low.

Environmental and health impacts resulting from trade

Experts from NGOs raised the fact that once a waste shipment has reached its destination, it may be taken over by illegal recycling plants that do not comply with national rules (cases in Malaysia were cited). Trade can also result in health impacts if those who sort imported waste lack adequate protection. Residuals from waste recovery are burnt on site at some importing country recycling facilities, resulting in air, water and soil pollution. The need to enhance the enforcement capacity of authorities in importing countries was stressed by experts from both NGOs and the EU recycling industry. An expert from a global logistics company raised the concern that some importing countries may not have enough knowledge to assess if their recycling facilities can properly handle the type of imported waste received.

An expert from a waste management company noted that importing countries have become more aware of the environmental impacts of their imports over the past few years, and this strengthening of rules and/or of their enforcement is positive from an environmental perspective. One respondent stated that China's restrictions on waste imports were taken to reduce impacts on the domestic environment (and the economic impacts, as many small recyclers closed, have meant that more technically advanced companies remain in operation).

The abandonment of thousands of unclaimed waste containers in South-East Asia (Vietnam, Malaysia, Indonesia, Philippines, Thailand) was nonetheless raised as a significant challenge by one interviewee.

An EU recycler suggested that, to reduce environmental impacts in importing countries, waste should be pre-processed, cleaned and separated in the EU before being exported. This was echoed by a respondent from a developing country, who noted that separating the waste at the destination is a lot of work, and the destination country ends up with left-over waste which has no value. Another respondent from a developing country said that the EU should have the capacity to test the quality of waste in shipments before they are exported. A further suggestion from a developing country interviewee is that requiring EU countries to notify waste exports to the receiving countries would help to provide data on incoming flows and could also be used to check whether the flows are really recyclables and are not destined for disposal or dumping.

Links between a circular economy and trade

Several experts from the waste management and trade sectors said that the waste trade maximises the use of waste in the global economy, displacing the use of primary raw materials. One respondent from an international organisation stressed that the trade of waste is not inherently bad, and should indeed be encouraged, as long as leaks in the cycle can be contained.

Exports noted that as opportunities to export waste have significantly reduced over the past year, there have been calls for constructing new recovery facilities in the EU. According to experts from the EU recycling sector, investments focus currently on high quality and high value plastic waste (e.g. low-density polyethylene, LDPE, films) for which there is demand in the EU and which are therefore economically viable. They do not focus on multi-layered, complex plastic waste.

Experts from the EU recycling industry called for market-based incentives to make recycling of plastic waste more competitive. Requirements on producers to use a certain proportion of recycled plastics could also foster new demand (e.g. with recycled content targets in furniture or automobile manufacturing). One expert suggested the development of harmonised specifications for waste sorting to foster recycling, especially of plastic waste. Ensuring a proper eco-design of the products is also essential. Options to increase the demand for recycled paper would have a more limited effect, according to an expert from a waste management company, as paper progressively loses resistance (it can be recycled a maximum of 7 times after which virgin pulp must be added).

2. Regulation (EC) 1418/2007 and Regulation (EC) 1013/2006

Most experts from the waste management and trade sectors found that the Regulation (EC) 1418/2007 is useful, although they made a range of suggestions for its improvement (described below). These experts said that the Regulation provides a common framework preventing unfair competition between EU exporters, provides reassurance to importing countries and lays down rules against which EU exporters can be held, at a time of high media scrutiny.

At the same time, several experts in waste management and in logistics and trade companies raised concerns that exporters from other countries such as the US are not required to respect the same rules. One expert from a logistics company mentioned that while the objective of the Regulation is positive, in practice it limits EU exports unnecessarily. Several experts from the waste management and trade sectors said that green-listed waste should be considered as a commodity/raw material/product rather than waste, which would facilitate trade.

An NGO expert considered on the contrary that waste trade is insufficiently regulated, raising the issue of nanomaterials in waste (e.g. in synthetic textiles) and the need to scrutinize the current EU “green list” of wastes.

It was also stressed by several experts that while importing countries generally know about the Basel Convention, they may not be aware of the EU legislation on waste and may not necessarily use the same definitions of waste.

On the other hand, a respondent from a developing country stated that on occasion, EU requirements are not being properly implemented: in cases, paper and plastic waste – listed as prohibited for import to their

country in the EU Regulation – had been be shipped to their country. Moreover, there is evidence that such waste is being accepted, even if it should not be.

Divergent interpretations across Member States

Several stakeholders from the waste management and trade sector raised the issue of being faced with different interpretations of EU legislation by different national authorities. These included different interpretations of what is considered waste vs. a product; of the acceptable level of impurities in waste exports; of the information to accompany waste shipments (different interpretations of the information requirements in Annex VII of the Regulation (EC) 1013/2006); and whether waste can be exported to a country not listed in the Annex to Regulation (EC) 1418/2007.

One stakeholder interviewed said that the HS code⁵ is a powerful tool to regulate these shipments at global level, and that at least one importing country is looking to differentiate HS codes for clean plastic scrap by types of plastic (e.g. PET, HDPE) to make them easier for industry to implement.

Frequency of updates to Regulation (EC) 1418/2007

Experts noted that the rules applicable to waste imports in key non-EU non-OECD countries have been evolving rapidly in recent years, whereas the current Regulation is based on information dated from 2013. This has resulted in a high degree of uncertainty for the EU waste management and trade sectors as well as for national authorities.

Exporting companies tend to use information from their importing company partners to understand current restrictions in importing countries. (Some experts also said that queries were sent to the National Focal Points for the Basel Convention, but the rate of response was low.)

According to the experts interviewed, EU customs inspectors rely on the Regulation and therefore may authorise exports that are no longer allowed by the importing country (or block exports that are allowed). Alternatively, they rely on recent national notifications to World Trade Organization (WTO) or to the Basel Convention Secretariat for reference, which may differ from the requirements listed in the Regulation (EC) 1418/2007. Or they refrain from taking any enforcement action in the absence of clear information. As a result, the approaches to enforcement vary significantly across Member State authorities and ports.

Most experts interviewed called for more regular updates of Regulation (EC) 1418/2007: suggestions ranged from continuous updates to updates every quarter, biannually or annually.

An expert from the recycling industry proposed incorporating the main rules of Commission Regulation (EC) 1418/2007 into Regulation (EC) 1013/2006 and listing the rules applicable in each importing country on a website (i.e. discontinuing Regulation (EC) 1418/2007). The idea of using a website instead of an Annex was expressed by several other experts from the waste management and recycling sector.

Exchange of information among Member States

One expert said that several Member States collect updated information bilaterally from importing countries. However, they do not necessarily share this information with other Member States or with the European Commission. Several experts suggested encouraging Member States to share information they receive from non-EU non-OECD countries between each other. To this end, more regular meetings of the Waste Correspondents could be organized by the European Commission.

⁵ Harmonized Commodity Description and Coding System

Exchange of information with importing countries

One stakeholder similarly noted that information could be improved by improving the relationship between governments in importing and exporting countries – they noted that if a shipment is rejected and returned, governments of the exporting countries are only informed if it is reported in the media, as the exporting company does not regularly share information on why a shipment was rejected. As noted above, another suggestion is that EU Member States inform importing countries of waste shipments they are exporting.

Other issues concerning the Regulation

Quality of information

Several experts stressed the need to check information provided by importing countries on rules applicable to imports of non-hazardous waste. There has sometimes been confusion between waste codes or between control procedures set out in the Regulation. In addition, what the EU considers green-listed waste or mixtures thereof may not be considered as such in the importing countries, which adds to the overall complexity.

One expert from the international recycling sector underlined the importance of ensuring that the replies from non-EU, non-OECD countries are based on national regulations and that the same procedures apply to other exporting countries.

Countries not included in the Annex to Commission Regulation 1418/2007

Several experts from the waste management and trade sectors as well as from national authorities expressed concerns about the lack of replies from certain importing countries to the questionnaire sent by the European Commission. As a result, these countries are not currently listed in the Annex to Regulation (EC) 1418/2007. The stakeholders explained that some customs officials prohibit exports to countries not listed in the Regulation, instead of allowing them subject to the prior notification and consent procedure (which is the default procedure in case of no reply, as stipulated in recital 5 of the Regulation).

One suggestion to address this problem was that countries not replying to the questionnaire should still be listed in the Annex to the Regulation, with a statement under each explaining that in the absence of a reply, the default option indicated in recital 5 of Regulation (EC) 1418/2007 applies: i.e. prior written notification and consent (column b). This would avoid that exports are prohibited when they could actually be allowed.

Definition of “other control procedures”

A number of stakeholders from the waste management and trade sectors raised concerns about column (d) in the Annex to Regulation (EC) 1418/2007 regarding “other control procedure”. These “other control procedures” are not specified in the Annex. The lack of information results in different enforcement decisions across EU ports.

Various suggestions were made by experts to address this issue ranging, from the complete withdrawal of this option from the Annex, to making an official link between column (d) and information exchanged in the framework of the Basel Convention or making an explicit reference to the applicable national laws.

Digitalisation and simplification

There was a call from all experts in the waste management and trade sectors to simplify and digitalise administrative procedures, including information required under Annex VII of Regulation (EC) 1013/2006. In this context, one expert referred to a “blockchain” initiative launched in the UK which could increase the traceability of waste trade flows and facilitate enforcement.

Another expert from the international recycling sector suggested that a mobile application could facilitate the prior informed consent procedure and make it more efficient.

Experts from the trade/logistics sectors suggested the development of an EU license for green-listed waste exports (instead of national registration systems) as well as a harmonised system of authorisations for waste transportation.

An expert from the logistics sector suggested increasing the threshold for waste destined for laboratory analysis to determine its suitability for recovery (this waste does not require prior written notification and consent)⁶: the expert said that 200kg or more may be needed to conduct recovery tests, whereas the current threshold is only 25kg.

An expert from a global logistics company argued that trade would be facilitated if there were a common database with the location of approved recycling facilities around the world and information on the type of machinery available at each site. The importing company would then only need to provide a certificate confirming that the recovery operation does not result in pollution and an import license. There should also be regular audits by independent inspection companies.

Tracking and enforcement issues

The issue of the lack of traceability of waste trade flows was highlighted by experts from both NGOs and the waste management and trade sectors. Several stakeholders explained that information accompanying shipments (as per Annex VII of Regulation (EC) 1013/2006) is not kept on board ship until it reaches its destination. Local authorities are not necessarily informed about the type of waste that is imported or whether it is adequately recycled.

It is also not necessarily possible for EU exporters to predict local bankruptcies or abandonment of waste, which was initially imported for recovery purposes.

One issue identified by a respondent from an international organisation is that some exporting countries assume that their exports of non-hazardous waste is 100% recycled at their destination without considering material losses (and loopholes in the recovery process): there is little incentive to track what actually happens to this waste in importing countries. One expert suggested the development by industry federations at EU or international level of a simple tracking system which would allow to ensure that waste is recovered in an “environmentally sound manner”. Clearer customs codes could also help improve the traceability of waste trade flows. An expert from the international recycling sector suggested that the EU adopt rules indicating under which custom code each specific waste should be listed. This would enhance the transparency of trade flows.

Enforcement

Enforcement of rules in the EU and in importing countries was an issue that came up recurrently during the interviews. According to several experts in the waste management sector, green-listed waste is

⁶ Article 3(4) of Regulation (EC) 1013/2006

generally not a priority for inspectors at EU ports, which due to shortages of staff, tend to prioritize their efforts based on the risk profile of the shipment. Ports located in the southern Europe conduct fewer checks than in the North. The lack of controls was raised as a challenge by experts from NGOs. One international organisation also suggested that there is potential to set up a monitoring system that could detect suspicious trade and mechanisms to follow up in case something is detected, as a way to improve the management of non-hazardous waste exports.

Several experts (from the logistics/trade sector and the EU industry) mentioned that audits are sometimes conducted by independent companies in the facilities where the waste is sent to for recovery purposes (e.g. in the case of paper waste), although this is not yet the case in the metal scrap recovery sector.

Wastes for refurbishment, repair or preparation for re-use

An expert from the recycling sector said that the Regulation (EC) 1418/2007 does not take into account waste exported for refurbishment, repair or preparation for re-use. Some non-EU non-OECD countries may wish to prohibit the imports of certain wastes sent for these operations (e.g. India has prohibited electronic waste over a certain age) or other wastes that are not hazardous but are not on the EU green list of wastes. It was suggested to ask importing countries in the future, in the framework of the EC questionnaire, if there are specific rules applicable to the importation of other kinds of non-hazardous waste beyond the ones listed on the EU green list, including waste exported for refurbishment, repair or preparation for re-use.