

Information from the Netherlands on the application of the 2% threshold in paragraphs 20(b), 21(b) and 22 of the Correspondents' Guidelines No. 12¹

The Netherlands hereby provides information in accordance with footnotes 14, 16 and 17 to paragraphs 20, 21 and 22 of the Correspondents' Guidelines No. 12 regarding the application of a total maximum level of 2% by weight of the consignment for the content of contamination and other types of wastes under entry EU3011 and for mixtures of plastic waste covered by point 4 of WSR Annex IIIA for shipments with the Netherlands as the country of dispatch or destination.

For such a consignment of plastic waste classified under entry EU3011, as specified in paragraphs 20(b) and 21(b), the Netherlands will continue to apply a total maximum of 2% by weight of the consignment for the content of contamination and other types of wastes and polymers, other than the polymer that makes up the bulk of the plastic waste.

For such a consignment of plastic waste classified as mixture of plastic waste covered by point 4 of WSR Annex IIIA, as specified in paragraph 22, the Netherlands will continue to apply a total maximum of 2% by weight of the consignment for the content of contamination and other types of wastes and polymers, other than those specified in the subparagraph of point 4 of Annex IIIA in question. This is laid down in our policy rule².

For transit, the total maximum levels agreed by the competent authorities of dispatch and of destination are respected, in accordance with paragraph 4 of the Correspondents' Guidelines No. 12.

Rationale:

As stated in the preamble of the Waste Shipment Regulation³ (WSR) "the main and predominant objective and component of this Regulation is the protection of the environment, its effects on international trade being only incidental." In order to achieve this goal, contaminated batches of waste must be prevented from crossing the border without prior notification and consent. The competent authorities must be able to inform themselves properly and take all necessary measures to protect human health and the environment. To this end, the WSR's PIC procedure offers these authorities the possibility to object to a transfer. According to the Dutch Waste Management Plan, the minimum processing standard for plastic waste⁴ is recycling, with the condition that no residue will be landfilled. In order to meet this condition without the possibility to assess a notification when Dutch waste is shipped to other countries, the percentage of contamination must be minimal.

That is why the Netherlands has developed specific instruments over the past 15 years for controlling a number of waste streams. Since 2011, limit values for pollution have been used for plastic waste, paper waste and metal waste. The brief outline below illustrates the development and implementation of these limit values in the Netherlands.

In practice, waste always appears to contain some contamination. Discussions about the acceptable level of these impurities lead to an increased burden for companies and stand in the way of effective administrative enforcement of the WSR. In the past, this has also resulted in the necessary legal disputes. In order to create clarity and legal certainty for all parties involved, a guideline "Rules of thumb for assessing pollution of green-list waste" was drawn up in 2007 in consultation with the industry associations and companies involved. Ultimately, adding thresholds based on practical research and discussions with the relevant industry associations would provide more clarity and these were established in November 2011 for paper waste, plastic waste and metal waste. The thresholds for impurities in plastic waste has been set at 2% by weight. These thresholds were laid down in 2013 in a so-called policy rule, an instrument that the Netherlands uses to limit the scope for interpretation in legislation. These thresholds have been communicated to the relevant industrial organizations.

The experience of the Dutch inspectors is that a threshold of 2% is easier to enforce in practice. This because in practice only visually clean batches meet this standard. As a result, there is only a limited need for extensive sampling and analysis. Conversely, applying two different thresholds depending on the destination for the same waste will make enforcement more difficult.

¹ <https://ec.europa.eu/environment/system/files/2021-12/Correspondents%27%20guidelines%20No%2012%20final%20Nov%202021%20corr1.pdf>

² <https://www.officielebekendmakingen.nl/stcrt-2022-9069.html>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006R1013>

⁴ <https://lap3.nl/sectorplannen/sectorplannen/11-kunststof-rubber/>