

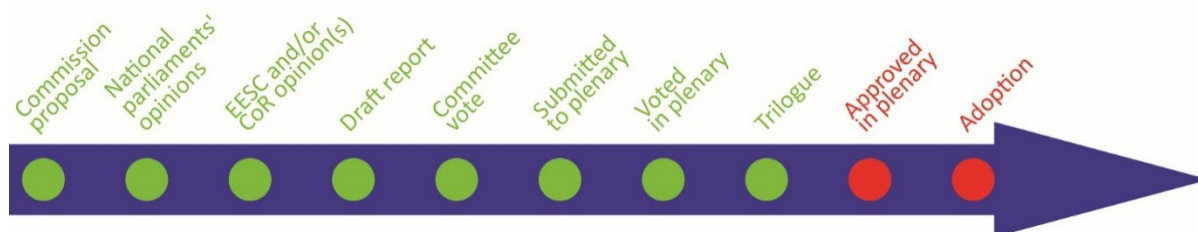
# Revision of the EU's Waste Shipment Regulation

## OVERVIEW

On 17 November 2021, the European Commission tabled a proposal to revise EU rules on shipments of waste. The proposed regulation seeks to ease shipments of waste for reuse and recycling in the EU, to support the transition to a circular economy; ensure that waste exported from the EU is managed in an environmentally sound manner in the destination countries; and step up enforcement to counteract illegal shipments of waste. While supporting the proposed streamlining and digitalisation of procedures, stakeholders have stressed the need for significant improvements to ensure that the new regulation fulfils its objectives, in particular as regards exports of waste.

The European Parliament adopted its position on the proposed regulation on 17 January 2023. Strengthening the Commission's text, notably on transparency, monitoring, and assessment of sound waste management in third countries, Parliament's negotiating mandate proposes putting an end to plastic waste exports outside the EU and EFTA countries. The Council adopted its general approach on 24 May 2023. Interinstitutional negotiations concluded on 17 November 2023 with a provisional agreement. The agreed text, endorsed by Member State representatives on 6 December 2023 and by the ENVI committee on 11 January 2024, now awaits formal adoption by Parliament and the Council. The vote in plenary is scheduled for the February II session.

<b>Proposal for a regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056</b>		
<i>Committee responsible:</i>	Environment, Public Health and Food Safety (ENVI)	COM(2021) 709 17.11.2021
<i>Rapporteur:</i>	Pernille Weiss (EPP, Denmark)	2021/0367(COD)
<i>Shadow rapporteurs:</i>	Cyrus Engerer (S&D, Malta) Frédérique Ries (Renew, Belgium) Sara Matthieu (Greens/EFA, Belgium) Mathilde Androuët (ID, France) Pietro Fiocchi (ECR, Italy) João Pimenta Lopes (The Left, Portugal)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Plenary vote on trilogue agreement	



## Introduction

In the [new circular economy action plan](#), part of the [European Green Deal](#), the European Commission committed to addressing waste exports from the EU, noting that in many cases, such exports result in both negative environmental and health impacts in the countries of destination, and in loss of resources and economic opportunities for the EU's recycling industry. It also pinpointed the EU's heavy reliance on foreign waste treatment for some waste streams, laid bare by import restrictions introduced in recent years by some third countries that used to receive considerable quantities of waste from the EU, in particular China.<sup>1</sup>

In 2020, EU exports of waste to non-EU countries reached 32.7 million tonnes<sup>2</sup> (+75 % since 2004). This represents about [16%](#) of global trade in waste. Turkey – a [member](#) of the Organisation for Economic Co-operation and Development (OECD) – is by far the largest destination for EU waste exports, receiving around [13.7 million tonnes](#) in 2020. It is followed by India (2.9 million tonnes), the United Kingdom, Switzerland, Norway, Indonesia and Pakistan (the latter having grown significantly as a destination for EU waste in recent years). The majority of waste exported outside the EU consists of ferrous and non-ferrous metal scrap as well as paper, plastic, textile and glass wastes. EU exports of ferrous metal scrap and glass waste are mostly destined for OECD member countries, while those of non-ferrous scrap, paper waste, plastic waste and textile waste mostly go to non-OECD member countries (see Table 1).

Table 1 – Shares of EU waste exports to OECD vs non-OECD

Waste type	OECD countries	Non-OECD countries
Ferrous metal	74.4 %	25.6 %
Glass	80.4 %	19.6 %
Non-ferrous metals	28.9 %	71.1 %
Paper and cardboard	15.5 %	84.5 %
Plastic	28.7 %	70.3 %
Textiles	6.5 %	93.5 %

Note: In volume, based on 2018/2019 average values (Comext database).

Source: Commission [impact assessment](#), p. 205.

In addition, around 67 million tonnes of waste are shipped between EU Member States every year. [Recent research](#) by the European Environment Agency (EEA) highlights the potential of these intra-EU cross-border movements for developing economies of scale for recycling, boosting the production of good-quality secondary raw materials, and increasing circularity. In 2020, [12.8 %](#) of material resources used in the EU came from recycled waste materials, according to Eurostat.

Against this backdrop, the Commission [proposal](#) on a revision of the rules governing EU shipments of waste, tabled on 17 November 2021, aims at facilitating shipments of waste for reuse and recycling in the EU, to support the transition to a circular economy; and at ensuring that waste shipped outside the EU is managed in an environmentally sound manner. It also seeks to improve enforcement to counteract illegal shipments of waste.

According to Europol's 2021 European Union serious and organised crime threat assessment (SOCTA) [report](#), waste trafficking – which covers the illegal transport, processing, disposal, recycling or recovery of various waste materials – increasingly takes place in the EU, in addition to locations outside Europe. The [activity](#), ranking first in the [top four](#) environmental crimes handled by Eurojust, causes extensive damage to the environment and human health, and generates substantial profits. While the extent is difficult to estimate, owing to the very nature of the activity and lack of reporting, a 2021 [study](#) suggests that the annual revenues derived from waste trafficking in the EU<sup>3</sup> could range between €3.7 billion and €15.3 billion.

## Existing situation

### International framework

At international level, shipments of waste are regulated under the [Basel Convention](#) on the control of transboundary movements of hazardous wastes and their disposal, which entered into force in 1992. Parties to the convention – including the EU and all its Member States – [are required](#) to ensure that hazardous wastes are managed and disposed of in an environmentally sound manner. They also have an obligation to minimise the quantities that are transported; treat and dispose of the wastes as close as possible to their place of generation; and prevent or minimise the generation of wastes at source. The convention sets up a regulatory system, including notice to and written confirmation from the receiving country prior to export (procedure of prior informed consent – PIC). Under the '[Basel Ban Amendment](#)', [ratified](#) by the EU and its Member States and in force since December 2019, the export of hazardous waste from OECD and EU countries to non-EU, non-OECD countries is prohibited.

#### Wastes regulated under the Basel Convention

The convention [covers](#) wastes defined as 'hazardous' based on their origin and/or composition and their characteristics (toxic, poisonous, explosive, corrosive, flammable, ecotoxic and infectious), as well as household waste and incinerator ash ('other wastes'). These wastes are listed in Annexes VIII and II, respectively. The 2019 [Plastic Waste Amendments](#), effective as of 1 January 2021, have brought contaminated, mixed or [hard-to-recycle](#) plastic waste under the convention's control mechanisms.

Article 11 of the convention allows parties to enter into bi- or multilateral agreements with other parties or non-parties on the transboundary movement of waste, provided that such agreements are 'no less environmentally sound' than the convention. In 1992, the OECD adopted a legally binding [decision](#) to facilitate and control transboundary movements of wastes destined for recovery operations between OECD countries. The [OECD control system](#) is based on two types of procedures:

- the **green control procedure** for wastes that present low risk for human health and the environment and, therefore, are not subject to any other controls than those normally applied in commercial transactions ('green-listed' wastes);
- the **amber control procedure** for wastes presenting sufficient risk to justify their control. Amber-listed wastes are largely those regulated under the convention, supplemented with some specific wastes. Control procedures are similar to the PIC procedure.

### EU legislation

[Regulation \(EC\) No 1013/2006](#) (the Waste Shipment Regulation – WSR) implements the provisions of the Basel Convention and the OECD decision into EU law. It also contains rules going beyond those on some aspects, in particular regarding shipments of non-hazardous wastes. The WSR covers the export and import of waste from the EU to third countries, as well as shipments between EU Member States. The regulation applies to almost all types of wastes, with some exceptions, such as radioactive waste, waste generated on board vehicles, trains, planes and ships, and shipments subject to the approval requirements of the [Animal By-products Regulation](#).<sup>4</sup>

### Control procedures

The WSR sets out two types of control procedures for the shipment of waste:

- the general information requirements of Article 18 for 'green listed' (i.e. non-hazardous) waste; and
- the procedure of prior written notification and consent ('notification procedure') for hazardous waste, household waste or residues from its incineration, hard-to-recycle plastics, and 'unlisted waste', or waste meant for disposal.

The notification procedure requires the competent authorities of the countries concerned by the shipment (countries of dispatch, transit and destination) to give consent within a certain deadline before the shipment can take place.

Whatever the procedure applied, all the actors involved in the shipment must ensure that the waste is managed in an environmentally sound manner, in respect of EU and international rules, throughout the shipment itself and when it is recovered or disposed of. This requirement implies that the exporter or the country of destination must demonstrate that the facility receiving the waste is operated in accordance with human health and environmental protection standards broadly equivalent to those established by EU legislation. Moreover, 'notifiers' must take back waste shipments that are found to be illegal or could not be treated as intended (including the recovery or disposal of waste). For this purpose, all shipments subject to the notification procedure require a financial guarantee or equivalent insurance for the period that waste is shipped under the notifier's responsibility.

## Trade restrictions

In addition, the WSR provides for certain trade restrictions. More specifically:

- exports of waste for disposal to third countries are prohibited, except to European Free Trade Association (EFTA) countries that are parties to the convention;
- exports for recovery of hazardous waste and 'other wastes' under Annex II of the convention to third countries are prohibited, except those directed to countries to which the OECD decision applies;
- imports of waste for disposal or recovery are prohibited from third countries that are not a party to the convention and not an OECD member country and have no bilateral agreement with the EU or its Member States.<sup>5</sup>

## Shipments of green-listed waste to non-OECD countries

A specific regime is in place to regulate exports of non-hazardous waste from the EU to non-OECD countries. Under Commission [Regulation \(EC\) 1418/2007](#), adopted in accordance with Article 37 WSR, these countries are asked to indicate if, in respect of the import of such waste, they have opted for a prohibition, the procedure of prior written notification and consent, exercise no control, or apply any other controls. The Commission compiles this information in the Annex to the regulation. In the absence of a confirmation from a specific country on the controls it requires, export of green-listed waste is subject to the notification procedure by default.

## Enforcement

The WSR requires Member States to provide for inspections of establishments, undertakings, brokers and dealers, of the waste shipments themselves, and of the related recovery and disposal operations. Inspections can be carried out at the point of origin; during the period of shipment within the EU; at the EU border; or at the point of destination, when the waste arrives at the facility that will carry out the recovery or disposal operations, including both interim and non-interim operations. The regulation requires Member States to prepare inspection plans (by 2017), taking account of a risk assessment covering specific waste streams and sources of illegal shipments. Member States need to lay down effective, proportionate and dissuasive penalties for WSR infringements. On this aspect, the WSR interacts with the [Directive](#) on the protection of the environment through criminal law, under which Member States must ensure that illegal shipments of waste constitute a criminal offence when undertaken in a non-negligible quantity. This directive has recently been [updated](#).

## Preparation of the proposal

The WSR was subject to an [evaluation](#), published in January 2020. While noting that the WSR has been generally effective in delivering its objectives of protecting the environment and human

health from the adverse impacts of waste shipments, and implementing the EU's international commitments on the matter, the evaluation identified a number of shortcomings. In particular, it found that uneven implementation and enforcement, together with diverging interpretations of WSR provisions, limit or discourage legal shipments of good-quality waste materials to adequate recycling facilities. One such example is the different interpretations of waste classifications by the Member States, notably on what constitutes waste and what is considered hazardous and non-hazardous waste, leading to burdens on and delays in shipments. Another major issue highlighted in the evaluation is the insufficient control of the conditions under which wastes exported from the EU, particularly non-hazardous ones, are managed in the destination countries, particularly in developing countries. Moreover, illegal shipments of waste within and outside the EU remain a considerable problem, which is due in part to insufficient enforcement of the WSR. EPRS published an [implementation appraisal](#) of the WSR in April 2021, which analyses in more detail deficiencies in the regulation's design and implementation.

The [impact assessment](#) (IA) accompanying the Commission proposal considered [four policy options](#). The preferred option is the fourth one ('Far-reaching changes'). For intra-EU shipments, this option involves modernising the WSR through a mandatory shift to EU-wide digital exchange of data; harmonising the implementation of existing procedures and obligations; and aligning the WSR with the [waste hierarchy](#) and its preference for reuse and recycling. As regards waste exports outside the EU, it implies establishing that waste can only be exported to non-OECD countries that demonstrate their ability to treat certain waste, and ensuring that exporting companies and countries check that facilities properly treat this waste. To tackle illegal shipments, the focus would be on increasing the efficiency of Member State enforcement efforts, including penalties; and increasing cooperation on inspection and investigations at national and EU levels. To support the preparation of its impact assessment, the European Commission ordered an [external study](#) (Exploration of potential policy responses to review the Waste Shipment Regulation, May 2021). EPRS has prepared an [initial appraisal](#) of the Commission IA.

Stakeholder consultations were conducted throughout the evaluation and impact assessment processes. To prepare for the evaluation, an open public consultation and a workshop were held in 2018. An [inception impact assessment](#) on the WSR revision was published on 11 March 2020 for public feedback. An open [public consultation](#) was held between 7 May and 30 July 2020. It attracted 294 contributions. Most responses came from companies and business organisations and associations (65%), followed by EU citizens (16%), public authorities (12%) and environmental non-governmental organisations (NGOs, 6%). A [stakeholder workshop](#) took place on 23-24 September 2020. Several targeted consultations with a range of stakeholders were also organised as part of the impact assessment process.

## The changes the proposal would bring

The Commission [proposal](#), which is accompanied by a [communication](#) explaining the approach taken, would introduce the following new rules as regards the shipment of waste.

### Shipments within the EU

The proposal would introduce a general **prohibition on shipments of waste for disposal** in another Member State. Shipments of waste for disposal would be allowed only in exceptional cases, if specific conditions, set out in Article 11, are fulfilled. Shipments of mixed municipal waste for disposal would be prohibited.

To speed up procedures, still mostly paper-based, the proposal would allow for the **electronic submission and exchange** of the information and documents required for shipping waste between Member States, either through a central system operated by the Commission or through a national system (Article 26). The central system would work as a hub for exchanging information and documents in real-time between existing national systems for electronic data interchange. It would



be interoperable with the environment for electronic freight transport information established by [Regulation \(EU\) 2020/1056](#); and, in the future, with the [EU single window environment for customs](#).

Under the WSR, competent authorities of destination may decide to issue 'pre-consents' for certain wastes to be accepted by specific waste recovery facilities under their jurisdiction. Advantages of the 'pre-consented' status include a faster delivery of consent and a longer period in which shipments can take place. The Commission proposal would set up **harmonised requirements** for facilities to obtain 'pre-consented' status, to ensure their mutual recognition by all Member States and facilitate shipments to them (Article 14). A recovery facility's pre-consent would be valid for 7 years.

By 2 years after the proposed regulation's entry into force, the Commission would assess the feasibility of establishing a harmonised calculation method for determining the amount of **financial guarantees** or equivalent insurance (Article 7).

To facilitate harmonised classification of waste shipped within the EU as green-listed or amber-listed, the Commission would be empowered to adopt delegated acts establishing criteria such as **thresholds for contamination of wastes** (Article 28). This provision is meant to solve the problem of Member States having diverging views on whether specific waste streams should be subject to the EU's notification procedure, and thus applying different rules to their shipments.

## Exports of waste

The proposed regulation provides for an **export prohibition of non-hazardous waste to non-OECD countries**, except where these countries indicate their willingness to receive that waste, and demonstrate that they have put in place and implement all necessary measures to ensure that such waste will be managed in an environmentally sound manner (Articles 37 to 40). To do so, the third countries concerned would have to submit a request to the Commission, asking to be included in a Commission-managed list of countries to which export of green-listed waste destined for recovery would be authorised. Elements to demonstrate their ability to treat such waste properly include having a waste management strategy or plan, a legal framework for waste management, and a strategy for enforcement of domestic legislation on waste management and waste shipment; and being a party to relevant multilateral environmental agreements.

The proposal would strengthen the **monitoring of waste exports to OECD countries**, introducing a 'safeguard procedure' in the event that these exports lead to a situation where the waste is not managed in an environmentally sound manner (Article 42). If there is a considerable increase in waste exports to one of these countries within a short period, and insufficient evidence of the country's ability to treat the waste properly, the Commission would seek information from the country concerned. If the information provided were unsatisfactory, the Commission would be empowered to suspend waste exports to that country through delegated acts.

The proposed regulation would require exporters to make sure, prior to exporting waste, that the facilities that will manage the waste in the country of destination have been subject to an **audit**, to be conducted by an independent and accredited third party (Article 43). This audit, which would verify compliance with a number of criteria set out in Annex X, should be repeated at least every 3 years. If an exporter receives plausible information indicating that the facility is no longer compliant, it must carry out an ad-hoc audit without delay. For waste exports to OECD countries, the proposal provides for a possible exemption from the audit requirements if an international agreement between the country concerned and the EU recognises that the facilities in that country will manage waste in an environmentally sound manner.

The Commission would be empowered to adopt delegated acts setting criteria to differentiate between **'used goods' and 'waste'**, for specific categories of commodities for which this distinction is of particular importance for the export of waste from the EU.<sup>6</sup> This provision (set out in Article 28) aims to prevent waste being falsely declared as used goods.

## Illegal shipments and enforcement

The proposed regulation would establish a **waste shipment enforcement group**, to facilitate and improve cooperation and coordination between Member States in order to prevent and detect illegal shipments (Article 63). The group would work as a forum for sharing information and intelligence on trends in illegal shipments, and for exchanging views on enforcement activities.

To support and complement the Member States' enforcement activities, the Commission would be empowered to carry out **investigative and coordinating actions** in respect of illegal shipments (Articles 64 to 68). Certain enforcement actions may be entrusted to the European Anti-Fraud Office (OLAF).

Moreover, the proposal would introduce **common criteria** for determining the type and level of penalties to be imposed in case of infringements (Article 60).

## Advisory committees

The European Economic and Social Committee (EESC) adopted an [opinion](#) on the proposal on 23 February 2022 (rapporteur: Anastasis Yiapanis, Diversity Europe – Group III, Cyprus). The EESC welcomed the proposal for third-party audits, and stressed that the social partners and relevant NGOs should be observing procedures. It called for extending the electronic data interchange system to all waste shipments destined for export, import and transit. In its view, the system should be operational even before the 2-year deadline proposed by the European Commission. Moreover, according to the EESC, the fact that certain destination countries may be exempt from having to demonstrate the extent to which they meet key human health and environmental conditions, simply because they are OECD members, would be contrary to the spirit of the reform and could undermine the whole system. For the EESC, all OECD and non-OECD member countries should meet the same strict criteria regarding environmental commitments as are set in the EU. Proof of evidence should be provided that all the receiving countries are already managing their own domestic waste in an environmentally sound manner similar to EU standards, as well as ILO core conventions and labour standards. The EESC supported a harmonised penalty system that is effective and proportionate to the infringement. It also suggested assessing the possibility of establishing a market observatory for secondary raw materials; and asked for a thorough impact assessment of the implementation of the proposed regulation 5 years after its entry into force.

The European Committee of the Regions (CoR) decided not to issue an opinion.

## National parliaments

The [deadline](#) for the submission of reasoned opinions on the grounds of subsidiarity was 8 February 2022. No opinion was issued within the given time limit.

## Stakeholder views<sup>7</sup>

[FEAD](#), for the waste management sector, fully supports the introduction of an interoperable electronic notification procedure. It warns that the establishment of a list of countries to which exports of non-hazardous waste for recovery are authorised would mean a high administrative burden for third countries, likely to have a disproportionate deterrent effect. According to FEAD, an audit certification of the specific facility by an independent and accredited third party would be sufficient to ensure environmentally sound management. FEAD stresses that the provision on monitoring exports in Article 42 grants the Commission 'excessively far-reaching powers'.

[EuRIC](#), the recycling industries' confederation, warns that a 'one-size-fits-all approach', not differentiating between high-quality raw materials from recycling (RMR), such as metals or recovered paper meeting industry specifications, and lower-quality wastes would have a devastating impact on European recyclers' competitiveness. EuRIC is concerned that measures relating to exports to non-OECD countries would result in de-facto export bans for a variety of clean

'low-risk' RMR. For OECD countries, the monitoring of OECD exports and the possibility of waste export bans should only be limited to lower-quality waste streams. For non-OECD countries, EuRIC would favour simplifying the list of countries to an obligation similar to that of Commission Regulation (EC) No 1418/2007.

Welcoming the digitalisation and streamlining of procedures, [CEPIC](#), for the chemical industry, notably points to challenges with the verification of environmentally sound management, including the need to clarify criteria for consistency. It suggests that an ISO standard could be used to ensure harmonised implementation and interpretation. The EU could consider the establishment of a central register of audited facilities, with a view to making audit results available to any other party intending to export waste to the audited facility. [Eurofer](#), representing the steel industry, takes the view that auditing standards should be defined in the legislative text, and that the audit should be performed by an EU-based independent and accredited third party. Regular reporting and transparency requirements should apply, and an effective system of complaints be included. The Confederation of European Paper Industries – [Cepi](#) asks for further clarification to ensure that conditions in the country of destination follow a similar level of protection of human health and the environment as provided for in EU legislation, and believes that similar requirements should also be imposed on exports to (non-EU) OECD countries.

[Plastics Europe](#) proposes to include a distinct prior informed consent 'light' procedure to facilitate the movement of non-hazardous mixed plastic waste destined for recycling in pre-consented facilities. The business association [Eurocommerce](#) suggests including sufficient controls in the proposed regulation to prevent textile waste from being exported for reuse, but ending up in landfills in third countries and hampering recycling in the EU.

[Reuse](#), representing social enterprises active in the circular economy, welcomes the proposed distinction between used goods and waste, but believes that using delegated acts risks limiting the participation of the civil society in its definition. Minimum requirements applied horizontally to all types of used goods could already be developed during the co-decision process.

Environmental NGOs welcome [improvements](#), such as the ban by default on shipments for disposal; the ban by default on export of both hazardous and non-hazardous waste to non-OECD countries; the ban on export of untreated, mixed municipal waste; the monitoring system for export to OECD countries; and the auditing obligations for facilities outside the EU. They warn, however, that shipment to OECD countries is authorised as a default option, for both recycling and energy recovery, without preliminary scrutiny that the receiving country is actually performing as regards its own domestic waste. According to NGOs, this entails a risk of dumping if facilities in OECD countries are dedicated to treating imported waste, while equivalent domestic waste is neglected. NGOs require [better alignment](#) with the waste hierarchy, noting that the proposed text does not distinguish between shipments for reuse and recycling on the one hand, and shipments for lower forms of recovery, such as incineration, on the other. This would make the export of materials to another EU or OECD country for incineration as easy as for reuse or recycling. NGOs demand that the Basel Plastic Waste Amendments be better reflected in EU rules, including for intra-EU shipments. Problematic waste plastic streams should neither remain on the EU green list, nor be exported for energy recovery. The [Rethink Plastic Alliance](#) calls on the EU to propose a full ban on plastic-waste exports to non-EU countries.

## Legislative process

### Parliament

In Parliament, the Committee on the Environment, Public Health and Food Safety (ENVI), responsible for the file, appointed Pernille Weiss (EPP, Denmark) as rapporteur on 16 December 2021. On 1 December 2022, the ENVI committee [adopted](#) its legislative report with 76 votes in favour, none against and 5 abstentions. The [report](#) includes the following main amendments:



## Shipments within the EU

- If their geographical and demographical situation so warrants, Member States would be allowed, under certain conditions, to conclude bilateral or multilateral agreements on **shipments of waste for disposal**, to facilitate cross-border shipments to the nearest suitable facility.
- A pre-consent for a recovery facility issued by the competent authority in one Member State would be **valid in all Member States**. It would however be possible for a competent authority not to accept the pre-consent of the competent authority of destination. Reasons for such refusal would have to be communicated to the latter authority and the facility concerned. **At least one inspection** would have to be conducted by the relevant authorities during the 7-year validity period of a recovery facility's pre-consent, to check compliance with the latest applicable regulatory requirements.
- The central system would serve further purposes than electronic submission and exchange of information and documents, by storing data allowing **reporting and analysis** of waste shipments. Non-confidential information stored in the system should be made publicly available and easily accessible. Alternative procedures should be set up through a Commission implementing act to cope with any **temporary system failure**. The Commission would have to **review the system functionality** every 2 years.

## Exports of waste from the EU

- EU exports of **non-hazardous plastic waste** destined for recovery to non-OECD countries would be prohibited. EU plastic waste exports to OECD countries other than EFTA member states would be phased out within 4 years of the regulation's entry into force. Within a year of the act entering into force, the Commission would be required to assess the impacts of the phase-out on environmentally sound plastic waste management within the EU and, where appropriate, propose measures to mitigate any adverse effects on management capacity identified.
- The issue of **labour rights** would be considered in the assessment of environmentally sound waste management for the purpose of waste exports. In their requests for inclusion in the list of countries to which EU exports are authorised, receiving countries would need to provide information on their status with regard to membership in the fundamental International Labour Organization (ILO) Conventions. They would also have to **commit in writing** to managing and treating the waste imported in accordance with Article 56.
- Within 18 months of the regulation's publication, the Commission would have to issue guidelines clarifying how **best available techniques** (BATs) are to be used when assessing equivalence between human health and environmental protection requirements applied in the destination country and those laid down in EU legislation.
- The list of countries to which exports are authorised would be updated **every year**.
- Prior to exporting waste, exporters would need to obtain written confirmation that the third party entrusted with the audit of the facility that will manage the waste in the country of destination is **certified** in accordance with EU or internationally recognised standards, such as ISO 19011:2018. Exporters would also have to provide the Commission with an **audit report**. The Commission would be required to establish a central, publicly accessible **register of audited facilities**, with the date of the most recent audit. Audits must not be more than 2 years old.
- Exporters would also have to make sure that the facility in the destination country has internal reporting channels in place, with adequate protection of **whistle-blowers**.
- The report specifies that the **monitoring** of EU waste exports to OECD countries should aim to ensure that such exports fulfil the requirements of Article 56 for

environmentally sound management and that they do not have substantial adverse effects on **domestic waste management** in the receiving country. Insufficient evidence on the country's ability to recover the waste in an environmentally sound manner or evidence of non-compliance with Article 56 requirements or of adverse effects of imported waste on domestic waste management would trigger the Commission checking process. The condition whereby for the Commission to take action, a sudden surge in EU waste exports to the country concerned would have to be observed, would be removed.

- The obligation for an exporter to carry out an **ad-hoc audit** without delay in the event it receives evidence indicating that the facility is no longer compliant with the regulation's requirements would also apply to OECD countries.

### Illegal shipments and enforcement

- An **EU risk-based targeting mechanism**, to be detailed by the Commission through implementing acts, would be established to guide Member State inspections aimed at preventing and detecting illegal shipments.
- Member States' inspection plans would have to include the **minimum number of physical checks** of facilities and waste shipments conducted.
- Inspection outcomes, any remedial actions taken as a follow up by the national authorities, the names of the operators involved in illegal shipments, and the penalties imposed would be **made public**.
- Within 2 years of its creation, the waste shipment enforcement group would be required to propose to the Commission **an action plan** to tackle illegal shipments of waste. The proposed plan would be updated every 4 years.

### Reports and review

- To support the market for recycled materials, the Commission would need to present, within 2 years of the regulation's entry into force, a report on the introduction of **mandatory recycled content** targets for products, in particular, but not limited to, those made out of plastic, and, where appropriate, submit legislative proposals.
- The Commission would also be required to assess how the financial obligations under **extended producer responsibility** (EPR) should apply to used goods or waste shipped from the EU, and present a report to the Council and Parliament.
- The Commission would have to issue an implementation report **every 3 years**. The regulation would be **reviewed** by the end of 2030, rather than 2035.

On [17 January 2023](#), Parliament adopted the report with 594 votes in favour, 5 votes against and 43 abstentions, setting [Parliament's mandate](#) for negotiations with the Council.

## Council

The Council adopted its [general approach](#) on the file on 24 May 2023. In its [position](#), the Council adds a target to reach climate neutrality to the proposed regulation's objectives, in line with the EU climate goals. It clarifies a number of concepts and definitions (e.g. 'route', 'routing', 'notifier', 'person who arranges a shipment') and specifies that a shipment should not be regarded as illegal in cases of minor clerical errors in the notification or movement documents insignificantly affecting content. As regards **intra-EU shipments**, the Council adapts timelines in the procedure of prior written notification and consent. It requires the Commission to adopt, within a year of the regulation's entry into force, an implementing act clarifying the criteria that can be used to object to shipments of waste destined for disposal. The Council proposes to extend the validity period of a recovery facility's pre-consent from 7 to 10 years. It seeks to strengthen obligations to improve control concerning 'green-listed waste', and introduces a take-back procedure for these waste streams when a shipment cannot be completed as intended. In cases of illegal shipments, the Council adds a possibility for the competent authorities concerned and, where relevant, the notifier, to agree on

alternative arrangements for the recovery or disposal of the waste instead of applying a take-back procedure. It also suggests clarifications on the identification of the actors responsible for an illegal shipment, and on the release of financial guarantees. In the article relating to disagreements on classification issues, the Council introduces conditions to use when assessing if objects are waste or used goods, as well as the possibility for the Commission to adopt implementing acts to set detailed criteria on the uniform application of these conditions.

Regarding **exports of waste** from the EU, the Council makes several amendments to clarify which waste can be exported and how. It agrees that facilities at destination should be audited by independent bodies every 3 years, and asks the Commission to specify in a delegated act the criteria to determine independence, the procedure for accreditation, and professional qualifications needed for carrying out an audit. It also requires the Commission to set up and maintain a register with information on audited facilities, to be made publicly available. On **enforcement**, the Council adds a number of changes to clarify the relation between the Commission's and Member States' actions, and to specify the Commission's enforcement powers. It amends the article on penalties (elements to consider when establishing them, nature of the penalties) to grant Member States more flexibility. It suggests setting the main **application date** of the regulation 2 years after entry into force. The new conditions for waste exports would apply after 3 years.

## Trilogue agreement

Trilogue negotiations, launched on 31 May 2023, concluded with a provisional agreement on [17 November 2023](#), expanding the regulation's objectives to contributing to climate neutrality and achieving circular economy and zero pollution. The compromise found on the much-discussed issue of **plastic waste exports** envisages that all exports of non-hazardous plastic waste to third (i.e. OECD and non-OECD) countries will be subject to the notification procedure as from 2 years of the regulation's entry into force. As Parliament requested, exports of non-hazardous plastic waste to non-OECD countries will be prohibited within 2.5 years of the regulation's entry into force. However, 5 years after entry into force, countries willing to import plastic waste from the EU for recycling will have the possibility to submit a request to the Commission, asking to be included in the list of countries to which exports of non-hazardous waste from the EU are authorised, while demonstrating their ability to treat this plastic waste properly. If, after assessing the requests, the Commission is satisfied that the conditions set out in the regulation are met, it will adopt a delegated act to lift the ban and include those countries in the list. For plastic waste exports to OECD countries, requirements for specific Commission monitoring and scrutiny are added. Within 5 years of entry into force, the Commission will have to assess whether the relevant provisions of the regulation have ensured the environmentally sound management of plastic waste, both in the EU and in countries importing this waste from the EU. It should also look at the evolution of the capacity to treat plastic waste in the EU. The review could be accompanied by a legislative proposal, possibly including stricter conditions on plastic waste exports to third countries, notably prohibitions.

On **exports of waste** more generally, the co-legislators agreed that elements for demonstrating non-OECD countries' ability to manage waste received from the EU in an environmentally sound manner should include compliance with international labour and worker rights conventions (Annex VIII). Under the deal, third-party auditors conducting the audits of facilities at the country of destination should comply with detailed requirements (listed in the new Part A of Annex X) on independence and qualifications, and be authorised or accredited by an official public authority. To demonstrate compliance, they could refer to certification with EU or internationally recognised standards. The Commission will set up a register with information on audited facilities, to be made publicly available. Under the agreement, audits should include both physical and documentary checks. They must not be more than 2 years old. The obligation for exporters to carry out ad-hoc audits if they receive evidence indicating that the facility is no longer compliant with the regulation's requirements will also apply to OECD countries with which the EU has concluded relevant international agreements. The Commission should publish such agreements on its website.

The deal includes specific timelines and deadlines for the notification procedure and other processes related to **intra-EU shipments**. Among other elements, the co-legislators agreed on a 10-year validity period for a recovery facility's pre-consent, with at least one inspection; public access to information on wasteshipments (via the Commission website, with monthly updates); amended take-back obligations; and a review of the central system functionality every 2 years. On **enforcement**, the agreement backs the creation of a waste shipment enforcement group, meeting at least once a year; clarifies the Commission's role and powers, and amends the provisions on penalties. The regulation will apply 2 years after entry into force, except for some provisions. It will be reviewed by the end of 2035.

The [agreement](#) (with [annexes](#)) was endorsed by the Council's Permanent Representatives Committee on 6 December 2023 and by Parliament's [ENVI committee](#) on 11 January 2024 (with 81 votes in favour, 1 vote against and no abstention). It now needs to be formally adopted by the co-legislators. The vote in plenary is scheduled during the February II session.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Karamfilova E., [Waste Shipment Regulation](#), EPRS, European Parliament, 2021.

Vettorazzi E., [Review of the Waste Shipment Regulation](#), EPRS, European Parliament, April 2022.

## OTHER SOURCES

European Parliament, [Shipments of waste](#), Legislative Observatory (OEL).

## ENDNOTES

- <sup>1</sup> China, once the largest importer of plastic and paper waste from the EU, drastically restricted waste imports from 2018. As a result, important waste flows [shifted](#) towards other Asian countries and Turkey. Malaysia, Thailand and Vietnam have tightened their provisions on the import of certain waste streams, such as plastic, metal and e-waste.
- <sup>2</sup> To put this into context, the total waste generated in the EU by all economic activities and households amounted to [2 337 million tonnes](#) in 2018 (the latest year for which Eurostat data are available).
- <sup>3</sup> Estimates cover 23 EU Member States for which sufficient data were available.
- <sup>4</sup> Those exceptions are listed in Article 1.
- <sup>5</sup> In practice, these restrictions concern very few countries.
- <sup>6</sup> Examples provided in the communication accompanying the proposal include end-of-life vehicles, waste batteries and textile waste.
- <sup>7</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu) (contact)

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