

Shipments of waste, Basel Convention 1989 and OECD Decision 1992

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This Commission staff working document provides an evaluation of Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste (Waste Shipment Regulation - WSR).

It evaluates the effectiveness, efficiency, coherence, relevance and EU added value of the Regulation. Commission Regulation (EC) No 1418/2007 concerning the export of non-hazardous waste to non-OECD countries is also included in the evaluation.

It covers the period since the entry into force of the WSR, i.e. 12 July 2007, until present.

The Waste Shipment Regulation has been evaluated under five criteria, namely the Regulation's effectiveness, efficiency, relevance, coherence and EU added value.

Main findings

Effectiveness

The WSR has established a robust legal framework, which has been implemented by the Member States and generally led to a better control of shipments of waste and the environmentally sound management of shipped wastes at national and EU level. However, various challenges remain:

- different levels and manners of applying and enforcing the WSR, often combined with diverging interpretations of its provisions, result in sub-optimal implementation throughout the EU. This results in delays in and burdens on shipments of wastes across the EU;

- illegal shipments of waste and illegal treatment of legally shipped waste remain a considerable problem. This is the case especially for export of wastes outside the EU, in particular to developing countries.

Sustained and improved enforcement efforts are vital in this context, including through targeted inspections and controls, deterrent penalties, and by tackling understaffing.

Efficiency

The report highlighted that it is difficult to provide a comprehensive quantitative evaluation of the costs and benefits of the WSR. Little or no data is available. For Member States, resources for inspection and law enforcement infrastructure represent the main share of the costs together with the costs for dealing with illegal shipments. Costs for companies are linked to administrative requirements, direct financial costs and dispute settlement costs. Different interpretations of whether and how a material is classified as waste often lead to costly delays in waste shipments.

Most of the direct costs linked to the WSR are of procedural and administrative nature. The main obstacles are the complex and time-consuming - often paper-based – notification procedures.

The lack of common interpretation of WSR provisions also leads to delays in shipments. These delays can e.g. lead to additional storage costs for waste whilst decisions are pending, as well as to shipments being rerouted to destinations where they would be treated in a less environmentally sound manner than initially planned.

Another major cost - mostly for Member State competent authorities - concerns the taking back of illegal waste shipments.

Relevance

The WSR is relevant to protect the environment and human health within the EU, as well in as neighbouring states and third countries, *inter alia* by reducing the risks associated with shipments of hazardous waste and of waste for disposal. Illegal shipments and environmentally unsound management of shipped waste still occur though.

The creation of a safe and yet dynamic market for secondary raw materials in the EU is a key enabler for a European circular economy, which requires smooth cross-border circulation throughout the EU for waste streams destined for recycling. The procedures and administrative burdens linked to the WSR sometimes act as a disincentive to the circulation of these waste streams within the EU.

Coherence

There are synergies between the WSR and other pieces of EU waste legislation, especially the Waste Framework Directive and Directives covering specific waste streams. However, despite these synergies, several challenges remain. Illegal shipments and waste shipments organised by illegal operators still occur in the area of the waste stream legislation mentioned above. In its current form, the WSR is not fully facilitating the creation and promotion of a market for secondary materials, partly because of different interpretations across Member States, and also because the current Regulation was not crafted with this explicit objective in mind.

EU Added Value

The WSR has provided for greater consistency of approaches across Member States and has offered useful extra detail and legal clarity. Throughout the consultation, Member States underlined the importance of the WSR being implemented consistently throughout the EU. While circular economy objectives are currently not an explicit part of the WSR, the Regulation is a key instrument to promote it within the EU. If the WSR were to make a greater contribution to the circular economy, while continuing to reduce negative impacts on the environment and public health, this would significantly increase its EU added value.

Lessons learnt

A range of factors is perceived among public and private stakeholders to have negatively influenced the implementation of the WSR. These factors include:

- lack of consistent implementation of the Regulation across the EU: over the years, a number of provisions have been implemented in different ways;
- administrative burden related to procedures;
- lack of harmonisation in enforcement: differences in enforcement levels and practices seem to exist throughout Member States.

