

**Committee of the Regions****ENVE-V-040****105th plenary session, 30-31 January 2014****OPINION****Proposal for a Regulation amending the Waste Shipments Regulation**

## THE COMMITTEE OF THE REGIONS

- calls for an obligation for Member States to cooperate and exchange information on waste shipments and on enforcement measures, and calls on the Commission to take fully into account the competences of local and regional authorities when adopting delegated acts on the electronic data interchange, and to ensure compatibility with existing "single window" platforms as well as accessibility to all forces involved;
- welcomes the proposed obligation on inspection plans and EU-wide definition of obligatory content in order to promote regular and consistent planning of inspections in all Member States. Adequate inspection planning will help local and regional authorities to increase their capacity to carry out effective inspections;
- calls for an obligation for the coordination of inspection plans in countries where they are developed at a regional level; and for the plans to also include measurable targets, to refer to waterways and air transport, and to base the number and type of inspections on the risk assessment and priorities;
- calls also for an obligation of the inspection plans to include a communication and compliance promotion strategy, and information as to how the regulated community and the general public can report concerns to a prescribed agency (whistleblowing);
- believes that inspection plans at a strategic and not an operational level should be published; and urges the publication of an annual report of inspections carried out, the outcome of those inspections and any penalties imposed.

COR-2013-05880-00-00-AC-TRA

Rapporteur

Ms Paula Baker, Councillor, Basingstoke and Deane Council (UK/ALDE)

Reference document

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1013/2006 on shipments of waste  
COM(2013) 516 final

## Opinion of the Committee of the Regions– Proposal for a regulation amending the waste shipments regulation

### I. POLICY RECOMMENDATIONS

#### THE COMMITTEE OF THE REGIONS

##### *General*

1. believes that waste shipments are one of the most important areas of waste legislation where stronger enforcement is needed. In some Member States, waste shipments are adequately controlled but this is not the case in other countries, with "port hopping" as a result. There is clear evidence of illegal shipments of waste directly contravening the Basel Convention and the WSR, in particular hazardous waste exports (such as WEEE) outside the OECD under a re-use label, and exports of non-hazardous waste to developing countries for disposal or treatment that is not environmentally sound;
2. notes that joint inspections carried out by IMPEL-TFS<sup>1</sup> with 22 Member States found 863 violations out of 3454 shipments, a non-compliance rate of 25%;
3. stresses that effective enforcement of the Waste Shipment Regulation (WSR) would contribute to:
  - financial benefits through avoided clean-up and repatriation costs;
  - a European and global level playing-field for high standards of recycling;
  - preventing the serious environmental and health impacts stemming from the dumping of illegal waste shipments or treatment at substandard installations, in the destination countries;
  - promoting high quality sorting and recycling, including of hazardous waste, within the EU, contributing to the goals of the EU Resource Efficiency Initiative, and to economic growth and job creation in the EU waste treatment sector;
  - avoiding the illegal export of valuable secondary raw materials, which goes against the goals of the EU Raw Materials Initiative;
  - ensuring that the EU quantified collection, recovery and recycling objectives (e.g. in the WEEE, ELV, Packaging or Batteries Directives) are met;
4. sees benefit in "upstream" controls at the sites of waste producers and collectors in order to reduce pressure in ports;

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<sup>1</sup> Network for the Implementation and Enforcement of Environmental Law (IMPEL) - trans-frontier shipment of waste cluster.

5. urges strong and active cooperation from the waste and resource management industry as limiting illegal shipments benefits EU treatment companies who utilise sound environmental methods;
6. notes the result of the public consultation on the proposed amendments, in which 90% of stakeholders expressed support for EU legislative action on waste shipments;

*Inspection Planning for Waste Shipments*

7. welcomes the proposed obligation on inspection plans, including the EU-wide definition of obligatory content, in order to promote regular and consistent planning of inspections in all Member States. Adequate inspection planning will help authorities to increase their capacity to carry out effective inspections;
8. observes that poor enforcement in one Member State can lead to additional work and cost in another Member State, so there is a shared interest in developing harmonised inspection procedures and improved collaboration and intelligence sharing across borders;
9. recalls that inspection plans are a key element of the IMPEL guidance on waste shipment inspections<sup>2</sup>, but cautions that allocation of staff to inspection planning should not reduce the staff resource available for conducting inspections;
10. supports the proposal that inspection plans should cover the entire geographical area of the Member State concerned, but would suggest additional wording to allow for this to be done on a regional basis;
11. urges that plans should also include measurable targets, in line with existing best practice, which ensures that performance can be evaluated by decision makers;
12. supports strongly the provision that inspection plans include a risk assessment concerning specific waste streams and sources of illegal shipments, using intelligence based data supported by police authorities, and encourages competent authorities to apply the recommendations of IMPEL in this regard, in order to better prioritise the use of limited inspection resources;
13. considers waterway transports should also be part of inspection plans, reflecting the recommendations of IMPEL;
14. calls on the Commission to implement a conversion table between customs codes and waste codes so that the international tariff codes used by customs authorities can be used to select high-risk shipments for inspection;

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<sup>2</sup> IMPEL (2012) Doing the right thing for waste shipment inspections.

*Publication of Inspection Plans*

15. shares concerns raised by the Council<sup>3</sup> that publication of inspection plans could aid those engaged in illegal waste shipments. Believes therefore that inspection plans at a strategic and not an operational level should be published;
16. recognises that local and regional Authorities have a duty of care to their citizens to ensure that materials deposited with them for re-use, recycling, recovery or disposal are dealt with in a way that respects the environment and human health. Citizen's active cooperation with recycling and waste systems is adversely affected by awareness of environmentally damaging treatment of illegally shipped waste;
17. urges therefore the publication of an annual report of inspections carried out, the outcome of those inspections and any penalties imposed;

*Reversing the Burden of Proof*

18. applauds the proposal to require the shipper to prove that an item being exported for alleged re-use is fully functional. This is the case for EEE (rather than WEEE) and for cars (rather than ELVs). This reversal of the burden should aid inspection authorities to identify illegal export of non-functioning items, i.e. waste, which might otherwise be destined for substandard re-cycling or treatment outside the EU. Such items should be treated in a European facility to avoid the leakage of valuable raw materials, as well as protecting the environment and health of people in third countries;
19. welcomes the proposal that in the case of shipments destined for recovery that are suspected to be illegal the competent authority may demand proof from the shipper of the treatment methods, technologies and standards that will be applied at its destination. Further believes that this should be introduced for all relevant shipments under the WSR and that the end destination of all recycling should be published to increase transparency and public confidence in the waste and resource chain;

*Electronic Data Interchange*

20. supports the development of an electronic data interchange for waste shipments that could provide a secure database for the electronic declaration of shipments that included the supplier, the transporter, traders and the final destination of the material and stresses the importance of wide consultation with local and regional authorities and other stakeholders during its preparation;

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<sup>3</sup> Environment Council 14 October 2013.

21. maintains that such a data bank should be accessible to all relevant public authorities (environmental inspectorates, customs, police) and include inspection results to assist authorities in targeting their inspections;
22. observes that four countries already use an electronic data exchange for waste notification<sup>4</sup> which it is estimated that when applied throughout the EU could save business over EUR 40 million per year in administrative burden<sup>5</sup> and that the High Level Group on administrative burden has called for it to be used by all Member States;

*Other Issues*

23. reiterates that an essential complementary action to the WSR amendment is further strengthening of IMPEL, ensuring adequate long term financial support so as to increase IMPEL's systematic use of peer-review inspections and its work on identifying and sharing good practice with its further extension to the regional and local levels<sup>6</sup>;
24. repeats its call to the European Commission to come forward with a general EU legislative framework on environmental inspections and surveillance, including inspection powers for the European Commission, to support the role of local and regional authorities in implementing EU environment legislation, to reduce unfair competition due to different or absent inspection regimes and ensure equity in legal action<sup>7</sup>;

*Subsidiarity, proportionality and better regulation*

25. recalls that environmental policy is an area where competence is shared between the EU and the Member States, therefore the subsidiarity principle applies;
26. points out that waste shipments are international and without implementation and enforcement of legislation in the same way by all Member States there will not be a level playing field nor will risks to human health and the environment be managed, believes therefore that action at EU level is necessary;
27. insists that consequences for the competences of local and regional authorities be fully taken into account in the implementation of the electronic data exchange by delegated act of the Commission. Therefore direct consultation to local and regional authorities or their representatives needs to be undertaken before tabling any delegated act;

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<sup>4</sup> European Date Interchange for waste notification (EUDIN).

<sup>5</sup> European Commission High Level Group of Independent Stakeholders on Administrative Burdens (2009): Opinion of the High Level Group - Administrative burden reduction; priority area Environment.

<sup>6</sup> CdR1119/2012 fin.

<sup>7</sup> CdR 593/2013 fin, CdR 1119/2012 fin, CdR164/2010 fin.

**II. RECOMMENDATIONS FOR AMENDMENTS**

**Amendment 1**

COM(2013) 516 final, Article 1, paragraph 2 - Regulation (EC) No 1013/2006, Article 26, new paragraph 5

| <i>Text proposed by the Commission</i>   | <i>CoR amendment</i>  |
|--|---|
| <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 59 concerning technical and organisational requirements for the practical implementation of electronic data interchange for the submission of documents and information.</p> | <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 59 concerning technical and organisational requirements for the practical implementation of electronic data interchange for the submission of documents and information <u>taking fully into account the competences of local and regional authorities.</u> <u>The Commission will ensure compatibility with existing "single window" platforms and accessibility to all forces involved.</u></p> |

**Reason**

Appropriate consultations need to be carried out including at expert level of competent local and regional authorities. There is an existing customs single window for declarations and a maritime single window. Data needs to be accessible to all necessary agencies, i.e. Police, Customs, Inspections and Port Authorities.

**Amendment 2**

COM(2013) 516 final, Article 1, paragraph 3, point (b) - Regulation (EC) No 1013/2006, Article 50, insertion of paragraph 2a

| <i>Text proposed by the Commission</i>   | <i>CoR amendment</i>   |
|--|--|
| <p>Member States shall ensure that their competent authorities establish plans for inspections aimed at checking compliance with this Regulation. The plans shall cover the entire geographical area of the Member State concerned and shall apply to all waste shipment inspections carried out pursuant to paragraph 2, including inspections of establishments and undertakings, road- and railway transports and consignments in ports. Those plans shall include the following:<br/>(a) strategy and objectives for waste shipment inspections referring to the necessary</p> | <p>Member States shall ensure that their competent authorities establish plans for inspections aimed at checking compliance with this Regulation. The plans shall cover the entire geographical area of the Member State concerned <u>at the appropriate levels, ensuring coordination of the plans where several inspection plans are established</u> and shall apply to all waste shipment inspections carried out pursuant to paragraph 2, including inspections of establishments and undertakings, road- and railway transports and consignments in ports. Those plans shall include the following:</p> |

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| <p>human, financial and other resources;</p> <p>(b) a risk assessment covering specific waste streams and sources of illegal shipments, and considering intelligence-based data, such as police investigations and analyses of criminal activities;</p> <p>(c) priorities and a description of how these priorities have been selected based on the strategies, objectives and risk assessment;</p> <p>(d) information on the numbers and types of planned inspections concerning waste sites, road and railway transports and consignments in ports;</p> <p>(e) an assignment of tasks to each authority involved in waste shipment inspections;</p> <p>(f) means of cooperation between different authorities involved in inspections; and</p> <p>(g) an assessment of the need for training of inspectors on technical or legal matters relating to waste management and waste shipments and provisions on regular training programmes.</p> <p>The plans shall be reviewed at least annually and, where appropriate, updated. The review shall evaluate to which extent the objectives and other elements of the plans have been implemented.</p> <p>The plans shall be made publicly available by the competent authority in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>8</sup>.</p> | <p>(a) strategy and objectives <u>with measurable targets</u> for waste shipment inspections referring to the necessary human, financial and other resources;</p> <p>(b) a risk assessment covering specific waste streams and sources of illegal shipments, and considering intelligence-based data, such as police investigations and analyses of criminal activities;</p> <p>(c) priorities and a description of how these priorities have been selected based on the strategies, objectives and risk assessment;</p> <p>(d) information on the numbers and types of planned inspections concerning waste sites, road, <u>air, waterway</u> and railway transports and consignments in ports <u>based on the risk-assessment and the priorities</u>;</p> <p>(e) an assignment of tasks to each authority involved in waste shipment inspections;</p> <p>(f) means of <u>effective and efficient</u> cooperation between different authorities involved in inspections; <del>and</del></p> <p>(g) an assessment of the need for training of inspectors on technical or legal matters relating to waste management and waste shipments and provisions on regular training programmes;-</p> <p>(h) a communication and compliance promotion <u>strategy to involve the regulated community and the general public; and</u></p> <p>(i) <u>information as to how the regulated community and the general public can report concerns to a prescribed agency (whistleblowing).</u></p> <p>The plans shall be reviewed at least annually and, where appropriate, updated. The review shall evaluate to which extent the objectives and other elements of the plans have been implemented.</p> <p>The <u>strategic overview of the plans</u> shall be made</p> |
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8 [OJ L 41, 14.2.2003](#), p. 26.

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|  | <p><u>permanently publicly available, including electronically</u>, by the competent authority in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>9</sup>.</p> <p><u>Member States shall ensure that the outcome of the inspections carried out pursuant to the plans referred to in this Article, any remedial actions taken by the relevant authorities as a follow up to those inspections, the names of the operators involved in illegal shipments, and the penalties imposed are permanently available to the public, including electronically.</u></p> |
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**Reason**

In some Member States each region is in charge of establishing its own inspection plan so these should be coordinated so that the entire geographical area is covered. Including measurable targets would be in line with existing best practice in Member States and helps ensure that the effectiveness of the inspection plan can be evaluated by decision makers. Waterways and air transport also need to be included as they are also a means by which waste is transported. The waste and resource industry as well as the general public have a role to play in ensuring compliance with the waste shipment regulations and should be able to report concerns in the public good to an appropriate agency without fear of harassment or victimisation. It should be explicitly stated that the number and type of inspections need to be based on the risk assessment and priorities as referred to in points b) and c). Publication of the outcomes of inspections is necessary to demonstrate that the regulation has been implemented and to maintain public confidence in waste management. A strategic overview only of the plans should be published, as more detailed information might be of use to those trying to avoid the inspection of shipments.

**Amendment 3**

Regulation (EC) No 1013/2006, Article 50, paragraph 5

| <i>Text proposed by the Commission</i>  | <i>CoR amendment</i>  |
|---|---|
| <i>No change proposed by the Commission to the present text of Regulation (EC) No 1013/2006, Article 50, paragraph 5.</i> | <i>Change proposed to the present text of Regulation (EC) No 1013/2006, Article 50, paragraph 5:<br/>Member States shall cooperate, bilaterally <del>or</del> <u>and</u> multilaterally, with one another in order to</i> |

<sup>9</sup> [OJ L 41, 14.2.2003, p. 26.](#)

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|  | facilitate the prevention and detection of illegal shipments. <u>They shall exchange information on waste shipments and share knowledge on enforcement measures. The Commission shall create a common platform that includes all Member States for these purposes.</u> |
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**Reason**

Current cooperation is voluntary and lacks the participation of key Member States. Illegal transboundary shipments can only be combatted if all Member States work together, so a common platform should be created.

Brussels, 30 January 2014.

The President  
of the Committee of the Regions

Ramón Luis Valcárcel Siso

The Secretary-General  
of the Committee of the Regions

Gerhard Stahl

### III. PROCEDURE

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| <b>Title</b>  | Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1013/2006 on shipments of waste  |
| <b>Reference(s)</b>   | COM(2013) 516 final  |
| <b>Legal basis</b>  | Article 307 TFEU. Mandatory referral   |
| <b>Procedural basis</b>                                       |  |
| <b>Date of Commission letter</b>                              | 11 July 2013   |
| <b>Date of President's decision</b>                           | 25 July 2013   |
| <b>Commission responsible</b>                                 | Commission for the Environment, Climate Change and Energy (ENVE)   |
| <b>Rapporteur</b>   | Ms Paula Baker (UK/ALDE), Councillor, Basingstoke and Deane Council  |
| <b>Analysis</b>   | 23 October 2013  |
| <b>Discussed in commission</b>                                | 5 December 2013  |
| <b>Date adopted by commission</b>                             | 5 December 2013  |
| <b>Result of the vote in commission (majority, unanimity)</b> | Unanimity  |
| <b>Date adopted in plenary</b>                                | 30 January 2014  |
| <b>Previous Committee opinion</b>                             | Opinion on the Green Paper on a European Strategy on Plastic Waste in the Environment, CdR 3751/2013 fin<br>Outlook Opinion on The review of the European Union's key waste targets, CdR 1617/201 fin<br>Opinion on A Resource-Efficient Europe – Flagship Initiative under the Europe 2020 Strategy, CdR 140/2011 fin <sup>10</sup> |
| <b>Date of subsidiarity monitoring consultation</b>           | not carried out  |

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<sup>10</sup> [OJ C 9, 11.1.2012, p. 37.](#)