

Introduction to International and European legislation on Management and Transboundary Movements of Waste

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Activity 1.2.5 Trans Frontier Shipment of Waste (TFS)

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Content

Part I: Overall legislative framework on waste management

- Waste definition
- Hazardous waste
- By products and end of waste
- Treatment operations

Part II: Overview of the Waste Shipment Regulation

- Definitions
- Prior informed consent procedure
- Illegal shipments

Part III: Inspection and enforcement requirements

- Legal basis for inspections
- Inspection plans



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What do you need to know as an inspector?

What provisions do apply?

- What is waste?
- What is hazardous waste?
- How can it be treated?
- What are the requirements for shipping waste?
- Who can be involved and should be monitored?



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European Waste Legislative Framework

Waste Framework Directive 2008/98/EC (WFD)

Provides for a general framework of waste management requirements and sets the basic waste management definitions for the EU.

Decision 2000/532/EC establishing a list of wastes (Waste list)

Establishes the classification system for wastes, including a distinction between hazardous and non-hazardous wastes.

Regulation (EC) No 1013/2006 on shipments of waste (WSR)

This Regulation specifies under which conditions waste can be shipped between countries (implements also the Basel Convention and OECD Decision).

Industrial Emissions Directive 2010/75/EU



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What is waste?



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Waste Framework Directive

- Definitions
- Exclusions
- Waste hierarchy
- By-products vs end-of-waste
- List of waste



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Definitions

‘waste’ means
any substance or object which the *holder* discards or
intends or
is required to discard

Holder =
waste
producer or
the natural or
legal person
who is in
possession of
the waste;

‘hazardous waste’ means
waste which displays one or more of the hazardous
properties listed in Annex III;

- *Waste oils and bio-waste*
- *Holder, producer, dealer, broker, etc.*
- *Prevention, re-use, recovery, recycling, regeneration and disposal*



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Exclusions

- Gaseous effluents emitted into the atmosphere;
- Land
- Uncontaminated soil
- Radioactive waste;
- Decommissioned explosives
- Faecal matter
- Waste water,
- Animal by-products, except those which destined for incineration, landfilling or use in a biogas or in composting plant
- Carcasses of animals that have died other than by being slaughtered,

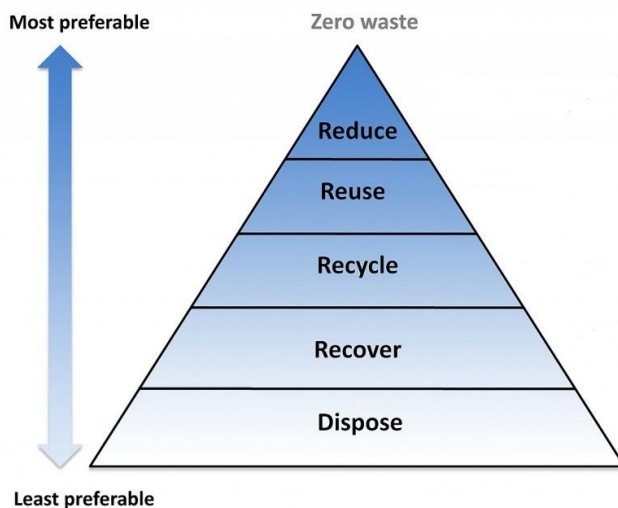


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Waste hierarchy/ pyramid



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By- products

A substance or object, resulting from a production process, the primary aim of which is not the production of that item, may be regarded as not being waste but as being a by-product only if the following conditions are met:

- (a) further use of the substance or object is certain;
- (b) the substance or object can be used directly without any further processing other than normal industrial practice;
- (c) the substance or object is produced as an integral part of a production process; and
- (d) further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.



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End of waste

Certain specified waste shall cease to be waste when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions:

- (a) the substance or object is commonly used for specific purposes;
- (b) a market or demand exists for such a substance or object;
- (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

The criteria shall include limit values for pollutants where necessary and shall take into account any possible adverse environmental effects of the substance or object.



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Example

In a refinery there is made fuel out of crude oil.

One of the other materials which is 'produced' is bituminous material.

This material can be directly used to make asphalt, no further pre-treatment is necessary.

Is this material waste, a by product or has it reached the end of waste criteria?



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Example 2

Waste, By-product, end of waste?



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Other topics in the Waste Framework Directive

- Producer responsibility
- Waste management
- Control hazardous waste
- ban on the mixing of hazardous waste
- Waste oil and bio waste
- Permits and registration



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Annex I

DISPOSAL OPERATIONS

- D 1 Deposit into or on to land (e.g. landfill, etc.)
- D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
- D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)
- D 5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D 6 Release into a water body except seas/oceans
- D 7 Release to seas/oceans including sea-bed insertion
- D 8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12
- D 9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcination, etc.)
- D 10 Incineration on land
- D 11 Incineration at sea (*)
- D 12 Permanent storage (e.g. emplacement of containers in a mine, etc.)
- D 13 Blending or mixing prior to submission to any of the operations numbered D 1 to D 12
- D 14 Repackaging prior to submission to any of the operations numbered D 1 to D 13
- D 15 Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage, pending collection,



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Annex II

RECOVERY OPERATIONS

- R 1 Use principally as a fuel or other means to generate energy
- R 2 Solvent reclamation/regeneration
- R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
- R 4 Recycling/reclamation of metals and metal compounds
- R 5 Recycling/reclamation of other inorganic materials
- R 6 Regeneration of acids or bases
- R 7 Recovery of components used for pollution abatement
- R 8 Recovery of components from catalysts
- R 9 Oil re-refining or other reuses of oil
- R 10 Land treatment resulting in benefit to agriculture or ecological improvement
- R 11 Use of waste obtained from any of the operations numbered R 1 to R 10
- R 12 Exchange of waste for submission to any of the operations numbered R 1 to R 11
- R 13 Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage, pending collection, on the site where the waste is produced)



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Annex III

PROPERTIES OF WASTE WHICH RENDER IT HAZARDOUS

- H 1 'Explosive':
- H 2 'Oxidizing':
- H 3-A 'Highly flammable':
- H 3-B 'Flammable':
- H 4 'Irritant':
- H 5 'Harmful':
- H 6 'Toxic':
- H 7 'Carcinogenic':
- H 8 'Corrosive':
- H 9 'Infectious':
- H 10 'Toxic for reproduction':
- H 11 'Mutagenic':
- H 12 Waste which releases toxic or very toxic gases in contact with water, air or an acid.
- H 13 (*) 'Sensitizing':
- H 14 'Ecotoxic':
- H 15 Waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above.

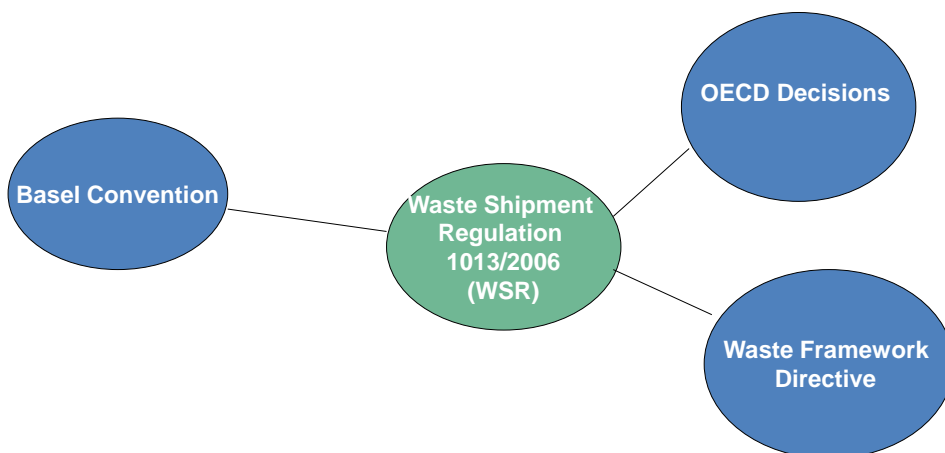


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International Waste Shipments Legislative Framework



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Application and Scope of the WSR (article 2)

The WSR sets procedures and control regimes for the shipment of waste, depending on **the origin, destination and route of the shipment, the type of waste** shipped and **the type of treatment** to be applied to the waste at its destination.



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Excluded from the WSR

Excluded from the WSR are **shipments of waste covered by other provisions**, such as radio active waste, animal by-products not intended for human consumption, waste generated at the normal operation of a ship or shipments within individual Member States.

Also waste imports into the Community of waste generated by **armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations** where such waste is shipped, by the armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination are excluded from the scope.



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Key definitions (article 2)

- Waste (refers to the Waste Framework Directive)
- Operations (refers to the Waste Framework Directive)
- Environmentally Sound Management
- Non-governmental actors, e.g. producer, holder, notifier
- Governmental actors, e.g. competent authorities, customs
- Illegal shipment



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Requirements for movements of green listed waste (art. 18)

- Waste listed on annex III, IIIA or IIIB (>20 kg)
- Shipments of waste explicitly destined for laboratory analysis to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations (max. 25 kg)

Waste must be accompanied by Annex VII document

1. Signed by the person who arranges the shipment before the shipment takes place and shall be signed by the recovery facility or the laboratory and the consignee when the waste in question is received!
2. Contract in place.



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Prior notification and consent procedure

Key documentation:

- Notification document (annex IA)
- Movement document (annex IB)
- Additional information and documentation (annex II, part 1, 2 and 3)



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Notification process (1/2)

1. Application or Notification:

- Notification and movement documents + supporting information (such as contract, financial guarantee, insurance and recovery information) to CA of dispatch

2. Assessment

- By CA of dispatch within 3 working days after receiving the notification package
- CA of dispatch transmits notification to CAs of destination and transit (3 working days for initial check). Right to ask for additional info (annex II, part 3). Block 19
- CAs of dispatch and destination have 30 days to: agree (with -block 21 - or without conditions – block 20) or object



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Notification process (2/2)

3. Moving the waste

- Only if all written consents and financial guarantee arrangements are in place
- 3 working days notice before the actual shipment to all CAs and the receiver of the waste by completing the movement document
- Relevant documentation must accompany the waste at every stage of its journey

4. Processing the waste

- At arrival complete block 18 ('certificate of receipt')
- Send within 3 working days to the notifier and all CAs
- Max 30 days after recovery/disposal of the waste complete block 19. Copies to all CAs and notifier

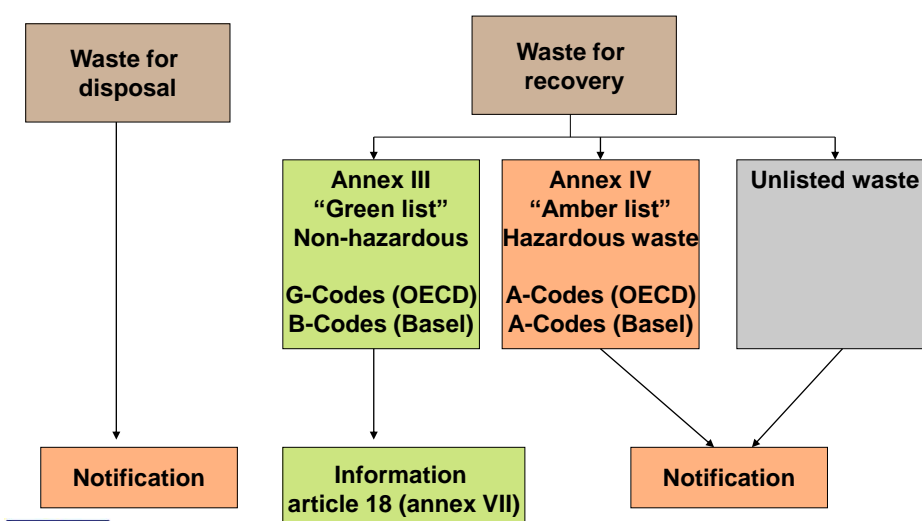


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Provisions for notifications for waste shipments between Member States

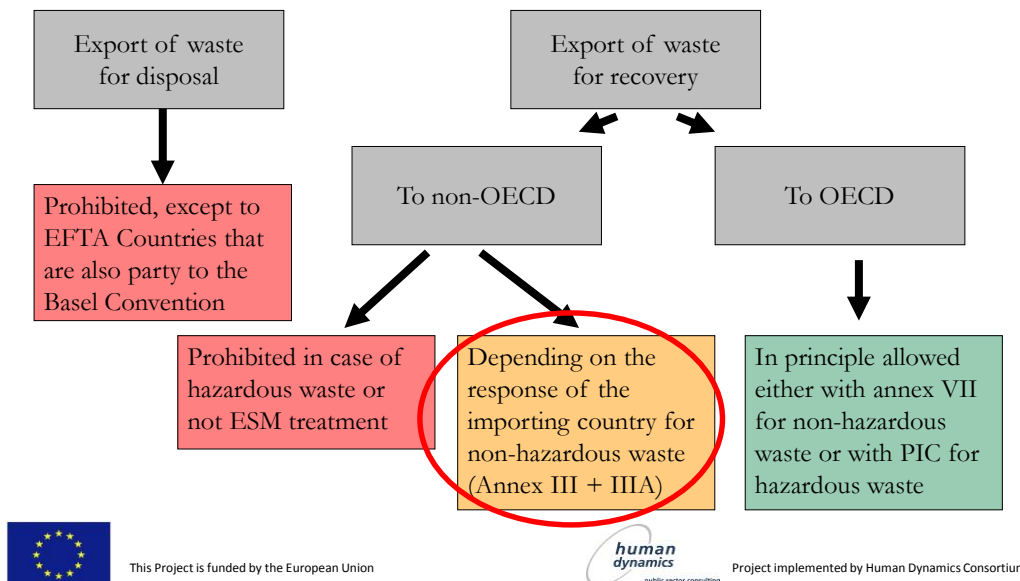


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Export of waste to third countries



Export of non-hazardous waste to non OECD countries

Commission Regulation 1418/2007

The Commission sends a [written request](#) to each non OECD country, seeking:

- (i) confirmation in writing that the waste may be exported from the Community for recovery in that country, and
- (ii) an indication as to which control procedure, if any, would be followed in the country of destination.

- (a) a prohibition; or
- (b) a procedure of prior written notification and consent; or
- (c) no control in the country of destination (***always art 18 information***), or
- (d) other control procedures in the country of destination (in this case article 18)

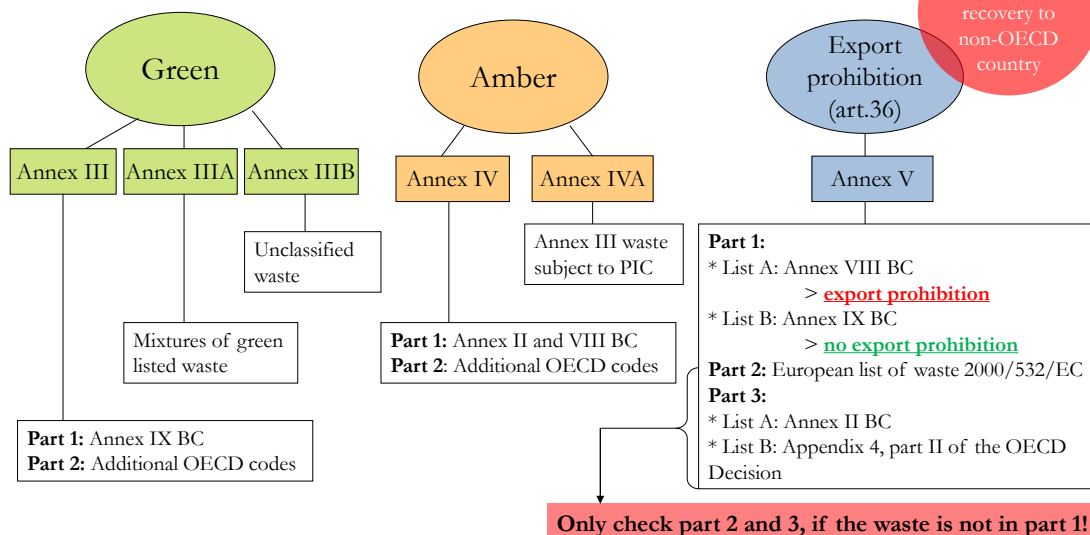


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Waste annexes to the WSR



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Illegal shipment of waste (art.2(35)) WSR

- Without notification
- Without consent
- With consent obtained through falsification or misinterpretation
- Not in accordance with the accompanying papers
- Resulting in recovery or disposal in contravention to international or Community rules
- Contrary to articles 34, 36, 39, 40, 41 and 43
- Not in accordance with the requirements of article 18



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Repatriation of an illegal shipment

➤ Articles 22 to 25



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Your role as inspector

Competences

- Checking sites and shipments
- What to inspect
- Gathering of proof
- Tools and resources
- Enforcement measures
- Collaboration

Legal basis



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What is an inspection?



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Key inspection requirements Waste Framework Directive (1/3)

Article 34 - Inspections

1. Establishments or undertakings which carry out waste treatment operations, establishments or undertakings which collect or transport waste on a professional basis, brokers and dealers, and establishments or undertakings which produce hazardous waste **shall be subject to appropriate periodic inspections by the competent authorities.**
2. Inspections concerning collection and transport operations **shall cover the origin, nature, quantity and destination of the waste collected and transported.**



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Key inspection requirements Waste Framework Directive (2/3)

Article 35 - Records

1. (...) chronological record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and shall make that information available, on request, to the competent authorities.

**3 years for hazardous waste!
(for waste transport companies 12 months)**

**But...WSR requires 3 years for documentation
related to all types of waste shipped (article 20)**



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Key inspection requirements Waste Framework Directive (3/3)

Article 36 - Enforcement

1. Member States shall take the **necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste.**
2. Member States shall lay down provisions on the penalties applicable to infringements of the provisions of this Directive and shall take all measures necessary to ensure that they are implemented. **The penalties shall be effective, proportionate and dissuasive.**



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Waste installations under the IED Directive

Details about the frequency of inspections are laid down in Article 23(4) of Directive 2010/75/EU on industrial emissions (“IED”) for installations to which that Directive applies.



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Waste Shipment Regulation

Article 50 - Enforcement

- Introduce penalties
- Perform inspections
- Draft inspection plans
- Cooperation bilaterally and/or multilaterally
- Burden of proof



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Objectives of the proposal to strengthen WS inspections

- Prevent serious environmental and health risks arising from illegal waste shipments (Art. 34,36,49)
- Significant economic and social benefits to be gained
- Reduction of the enforcement gaps identified in the inspections carried out by the MS

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Key Elements of the Adopted Proposal

- Establishment of Inspection Plans
- Enhanced powers of authorities involved in inspections
- Cooperation of Member States
- Access to information

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Establishment of Inspection Plans (1/2)

- MS shall establish IP's by 1/1/2017
- IP's shall be based on a risk assessment
 - covering specific waste streams and source of illegal shipments
 - considering intelligence-based data, if available and appropriate
 - aiming to identify minimum number of required inspections and physical checks
- IP's shall be reviewed at least every 3 years

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Establishment of Inspection Plans (2/2)

- Plans include mandatory elements:
 - objectives and priorities
 - geographical area covered
 - information on inspections and physical checks
 - assigned tasks to each authority involved
 - arrangements for cooperation between authorities involved
 - information on the training of inspectors
 - information on the human, financial and other resources for the implementation of the IP

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Inspections of Shipments

- Inspections of shipments may take place:
 - point of origin (producer, holder, notifier)
 - point of destination (consignee, facilities)
 - frontiers of the Union
 - in the course of the shipment
- Inspections shall include:
 - administrative checking (verification of documents, confirmation of identity), and
 - physical checking of the waste (if appropriate)

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Enhanced powers of authorities involved in inspections (1/4)

- To ascertain that a substance, or object being carried is not waste, the *authorities involved in inspections* may require documentary evidence:
 - as to the origin and destination of the material
 - that the material is not waste, incl. evidence of functionality, where appropriate
- The protection against damage (e.g. adequate packaging and appropriate stacking) during transportation, loading and unloading shall also be ascertained

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Enhanced powers of authorities involved in inspections (2/4)

- The *authorities involved in inspections* may conclude that the carried material is waste, if:
 - the required documentary evidence is not submitted within a designated period of time, or
 - the evidence is insufficient for a conclusion, or
 - the protection against damage is insufficient
- If waste, the carriage is to be considered an illegal shipment of waste
 - Articles 24 and 25 are triggered
 - local competent authorities are informed

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Enhanced powers of authorities involved in inspections (3/4)

- For cases of shipments of waste, the *authorities involved in inspections* may require documentary evidence in order to ascertain that:
 - a shipment for recovery under Art. 18 is destined to interim and non-interim facilities that are in accordance with Article 49
 - a shipment complies with the Regulation (catch-all clause)

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Enhanced powers of authorities involved in inspections (4/4)

- The *authorities involved in inspections* may conclude the shipment concerned is an illegal shipment of waste, if:
 - the required documentary evidence is not submitted within a designated period of time, or
 - the evidence is insufficient for a conclusion
- If the shipment is considered illegal, then:
 - Articles 24 and 25 are triggered
 - local competent authorities are informed

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Cooperation of Member States

- Member States shall:
 - a) cooperate bilaterally and multilaterally
 - b) exchange relevant information on:
 - shipments of waste
 - flows of waste
 - operators and facilities
 - c) share experiences and knowledge on enforcement measures (incl. the risk assessment of IP):
 - (b) and (c) to take place within established structures (e.g. correspondents' network)

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Access to information

■ Inspection Plans

- Covered by Directive 2003/4/EC 'Aarhus Directive' on public access to Environmental Information
- Availability upon request
- Exceptions of Article 4 apply

■ Outcome of the Inspection Plans

- As of 2018, MS shall publish: section of amended Annex IX report on → illegal shipments (Art. 24) and enforcement (Art. 50: penalties, summary & information on IP). Electronic publication via the internet
- Commission to compile and publish hyperlinks relating to IP

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Environment and Climate
Regional Accession Network **ECRAN**

Summary

Questions?



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