

Introduction to the Waste Shipment Regulation (EC) N°1013/2006 and its amendments

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ECRAN Working Group: Enforcement and Compliance (ECENA)
Activity 1.2.5 Trans Frontier Shipment of Waste (TFS)

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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

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

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

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



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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

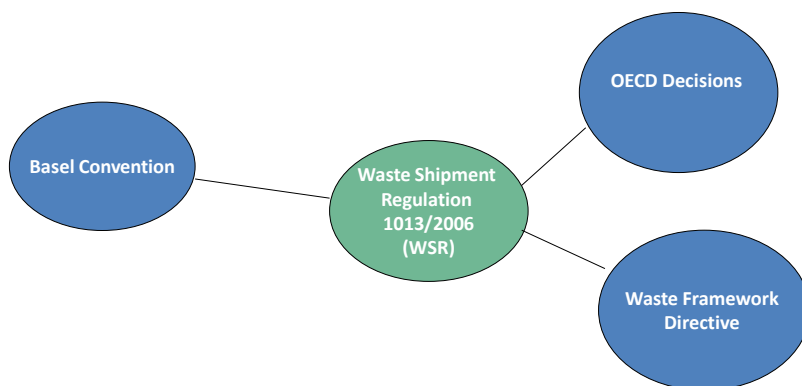


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International Waste Shipments Legislative Framework



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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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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)

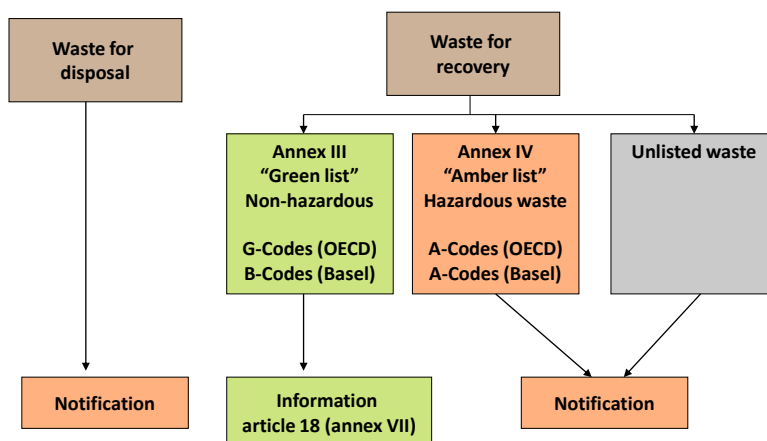


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Provisions for notifications for waste shipments between Member States

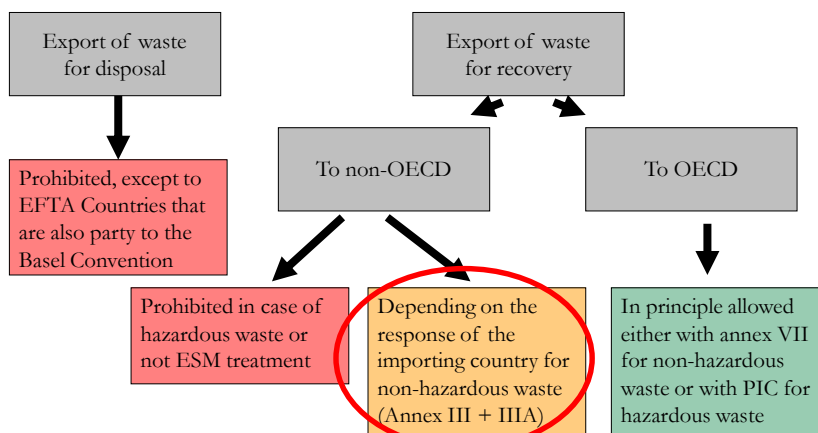


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Export of waste to third countries



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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)

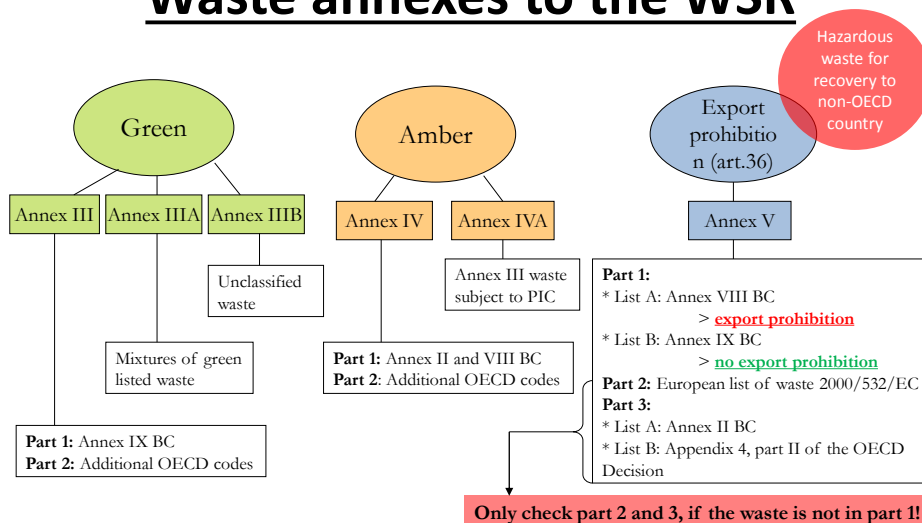


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Waste annexes to the WSR



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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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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 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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