

Public Consultation on the Functioning of Waste Markets

Public Consultation on the functioning of Waste Markets in the European Union

Part 1 - Identification of stakeholder or expert

Please enter your country of residence/establishment

- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
- LUXEMBOURG
- MAGYARORSZÁG
- MALTA
- NEDERLAND
- OTHER COUNTRY (non-EU)
- POLSKA
- PORTUGAL
- ROMÂNIA
- SLOVENIJA
- SLOVENSKO
- SUOMI / FINLAND
- SVERIGE
- UNITED KINGDOM
- ÖSTERREICH
- ČESKÁ REPUBLIKA
- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΥΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country of your residence/establishment:

Your name or organisation:

European Environmental Bureau

Please provide your EU Transparency Register ID number (if you have one)

06798511314-27

If your organisation is not registered, you can register now (please see the introduction to this consultation under 'How to submit your contribution').

Can your reply be published? Please tick the box of your choice.

- With your name or that of your organisation
- Anonymously

For information on how your personal data and contribution will be dealt with, please refer to the privacy statement in the introduction to this consultation.

I am replying to this consultation as...

- an individual
- a private enterprise
- a non-governmental organisation (NGO)
- an organisation or association (other than NGO)
- a government or public authority
- a European institution or agency
- an academic/research institute
- other

If you are replying on behalf of a company, please specify in which of the following markets you predominantly operate:

- The whole EU market
- In one or several Member States, please indicate which one in the list below:
- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
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- ΚΥΠΡΟΣ (ΚΥΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country in which you predominantly operate:

If you are replying on behalf of a company, please indicate the number of its employees:

- Between 1 and 49
- Between 50 and 249
- 250 and more

Part 2 - Questions

A. Identification of the main perceived regulatory failures

For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

The difference between treatment standards and their enforcement, that's why there should be a reference to BAT for permitting installations and definition of BREFs for waste treatments at EU level. But it should still be possible for a national authority to define more stringent standards, and in that case the export of waste from such a country should be done towards installations having the same level of operating standards as required by the exporting country, to avoid dumping. Exporting towards facilities with higher standards than exporting country should not be an issue.

The lack of harmonised methodology to assess the eventual impacts of exporting to move up the hierarchy. E.g to ship for recycling rather than burning.

The possibility to ship waste for recycling in a country rather than landfilling or burning should be made easier, providing there is a minimum playing field with regards treatment standards and accounting of recycling achievements.

The case for exporting for energy recovery rather than landfilling should be treated more cautiously, as exporting unsorted waste should be anyway avoided as possibly discouraging the setting of local separate collection infrastructure and recycling facility where needed. We would suggest that unsorted waste should not be exported for energy recovery or disposal, as we would suggest that generally speaking landfilling or energy recovering from untreated/unsorted waste should not be allowed at EU level.

The lack of EU wide obligation to separate collection of biowaste is another obstacle.

It should be clarified what is the scope of this consultation: hazardous waste should not be "freely" exported, and should respect the waste shipment rules. There should be no ambiguity about what is hazardous (codes are being refined now), and no derogation for landfilling or incinerating in non specialised plants should be allowed by national or local authorities without a review by a third party (being the EC, a group of MS, an executive agency...).

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

As regard different treatment standards, it is clear that we do not have yet European standards firmly established (beyond voluntary ones) for recycling processes and quality of recycled material. We do not even have an harmonised methodology to report on recycling achievements. However some waste streams as WEEE should now by law (WEEE 2012) be treated in recycling facilities operating at BAT level. The ongoing revision of waste policy and definition of BREfs for waste treatment should act in that direction for all waste streams.

As regard derogations provided for hazardous at national and local levels, backfilling operations are not defined and permitted at EU level, leading to different practices with regards what can be backfilled or not. Dilution strategy or local authorizations also create distorsion in the way hazardous waste is treated/considered. There are no EU wide acceptance criteria, even if characterisation of waste is considered in waste policy.

As regard environmental impact of exporting versus proximity principle, there is no simple template and review procedure established at EU level to help decision taking (even if the hierarchy and standard LCA methodology are sound basis for such a procedure).

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

- NO EU framework conditions and rules (e.g no BREFs, requirement for permitting at BAT level, methodology to report on achievements and to deviate from proximity principle).

Ongoing definition of BREFs is to be noted.

- Excessive derogations at national, regional and local levels, the possible derogations and lenient permitting and enforcement activities

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU?
(multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

We do not think simple guidance by EU would make a big difference.

8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

between 0 and 5

0

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

between 0 and 5

3

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

between 0 and 5

0

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

between 0 and 5

1

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

between 0 and 5

4

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

between 0 and 5

3

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

between 0 and 5

2

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

between 0 and 5

4

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

between 0 and 5

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3

j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

between 0 and 5

0

k. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

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11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

We are not data providers and are not aware of any evidences produced at EU level specifically on the subject

C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation

12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

- a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

between 0 and 5

4

- b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

0

- c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

between 0 and 5

4

- d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

between 0 and 5

2

- e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

between 0 and 5

0

- f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

between 0 and 5

3

g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

between 0 and 5

h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

between 0 and 5

i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

j. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

a) without calling for harmonised EU taxes or fees as not feasible, we could consider the idea of export compensation schemes (to prevent export for dumping or to escape national taxes)

It could be considered a EU provision to progressively increase landfill and waste to energy plants gate fees to enhance the implementation of the hierarchy (setting progressive increase as the obligation, not the fee itself).

c) yes as overcapacities tend to play the bottom price race

d) it's more the inefficiency of collecting and sorting + the lack of harmonised treatment standards effectively enforced.

e) we think it's mainly cost driven decision, and not that much a question of legal barrier

f) in fact there are no common rules for EPR schemes, and some can just export to comply at the cheapest price

g) We do not want to see a levelling to the bottom. It may not be a strong barrier, as long as we apply the principle that exporting should be allowed to facilities with at least equivalent standards as national ones.

h) there are no excessive controls for hazardous waste shipments, in contrary

14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

10e, 13a, 13f

15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

between 0 and 3

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

b. Less recycling

between 0 and 3

c. Less recovery, including energy recovery

between 0 and 3

d. Less environmentally sound management of waste

between 0 and 3

e. Less resource efficiency

between 0 and 3

f. Lack of market access

between 0 and 3

g. Other

between 0 and 3

If relevant, please provide additional information in relation to your above reply.

D. Final questions

17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

- derogation regime for hazardous waste
- permitting process and treatment standards (not all at BAT)
- end of waste at national level
- EPR schemes and their functioning/operational responsibility

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

Derogation regime limited and validated at EU level, by EU agency or a group of MS
No EoW at national level
EU minimum requirements for EPR schemes to operate
Setting EU wide standards at BAT level and regular update of BREFs

Part 3 – Follow-up activities

20. Would you be interested in participating in a stakeholder meeting on these issues that will be held on 12th November 2015?

- Yes, I would like to attend.
- No, I'm not interested.

My contact details are (optional):

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