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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION of Regulation (EC) N° 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste

Delegations will find attached document SWD(2020) 27 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION

**of Regulation (EC) N° 1013/2006 of the European Parliament and of the Council of 14
June 2006 on shipments of waste**

{SWD(2020) 26 final}

EXECUTIVE SUMMARY

The Waste Shipment Regulation (WSR) has been evaluated under five criteria, namely the Regulation's effectiveness, efficiency, relevance, coherence and EU added value. Commission Regulation (EC) 1418/2007 adopted pursuant art. 37(1) of the WSR, was also taken into consideration.

The WSR was adopted in 2006 and contains comprehensive rules on transboundary shipments of waste between EU Member States as well as between EU Member States and third countries. It covers the transboundary movements of both hazardous and non-hazardous wastes, for which different levels of control procedures are applied. The WSR was designed to protect the environment and human health, and to implement relevant international obligations of the EU on transboundary waste shipments (Basel Convention and OECD Decision on the matter). This is of great importance as the EU is an important player in the global trade in waste. Millions of tonnes of waste are shipped within the EU. In addition, around 40 million tonnes of waste were exported outside the EU in 2016, while around 13 million tonnes were imported into the EU.

The WSR includes provisions to address uncontrolled and illegal waste exports, e.g. to countries which do not have adequate facilities to ensure its environmental sound management. These exports can have detrimental impact on environment and public health in the destination countries. Problematic examples include improper handling/burning of electronic waste in West Africa and lack of environmental sound management of plastic waste in South East Asia.

Since 2006, a few amendments to the WSR have been adopted. In 2014, the most recent amendments to the WSR introduced requirements for Member States to establish inspection plans. This amendment also included a clause that calls upon the Commission to carry out a review of the WSR by 31 December 2020¹. To prepare for this review, a comprehensive evaluation was carried out in accordance with the Better Regulation guidelines, encompassing public and targeted consultation and the commissioning of an external study.

The main findings of the evaluation are the following:

Effectiveness

The WSR has established a robust legal framework, which has been implemented by the Member States. It has generally led to a better control of waste shipments and contributed to the environmentally sound management of shipped wastes at the national and EU levels.

The WSR has been generally effective in delivering its objectives to protect the environment and human health from the adverse effects of waste shipments and to implement the EU's international commitments on the subject.

¹ Article 60(2a) of the WSR

At the same time, different levels and manners of applying and enforcing the WSR, often combined with different interpretations of its provisions and different inspection regimes, have hampered its optimal implementation throughout the EU. These factors limit or discourage legal shipments of good quality waste materials to adequate recycling facilities, which are important for the transition to a circular economy in the EU.

When it comes to the export of wastes, especially non-hazardous wastes, outside the EU, an important shortcoming is the insufficient control of the conditions under which these waste are managed in the destination countries, especially in developing countries.

Illegal shipments of waste within and outside the EU remain also a considerable problem, due to the general nature of the provisions of the WSR (notably on the elements that need to be checked by the competent authorities, for example on the environmentally sound management of waste, as well as on enforcement), but also due to shortcomings in the implementation and enforcement of the WSR.

Efficiency

The WSR sets up a single legal regime for shipments of waste within the EU, as well as from and into the EU, thereby providing legal certainty for EU economic operators. The main obstacles to the efficient implementation of the WSR are the complex and time-consuming (often paper based) notification procedures as well as different interpretations of waste classifications by the Member States, notably on what constitutes a waste or not a waste, or on what is considered as hazardous or non-hazardous waste. This can result in heavy and cumbersome processes for economic actors willing to ship waste within or outside the EU.

The lack of common interpretation of the WSR leads to delays in shipments. These delays can e.g. lead to additional storage costs for waste whilst decisions are pending.

Relevance

The initial objectives of the WSR (protection of the environment and human health from adverse impacts of waste shipments and implementation of the Basel Convention and the OECD Decision) remain very relevant for the EU.

The rules governing the movements of waste are also relevant for the transition to a circular economy. However, the WSR was not specifically designed to ensure that the transition to circular economy is facilitated, as the emergence of circular economy as a new overarching EU political priority occurred only after the adoption of the WSR.

Coherence

The WSR is generally internally coherent and there are synergies between the WSR and other EU waste legislation, especially those Directives covering specific waste streams.

As indicated before, the WSR is not entirely coherent with the EU policy on circular economy.

A specific incoherence between the Waste Framework Directive and the WSR is that no provisions exist in the WSR to favour shipments for recycling over other forms of recovery (e.g. incineration with energy recovery) and to support the implementation of the waste management hierarchy.

Further, the WSR is coherent with the Basel Convention and OECD Decision. However, different classification codes used in different frameworks (Basel, OECD, EU List of Waste, customs legislation) add to the complexity of the situation for the administrations and actors involved in the shipments of waste.

In addition, the way according to which the Basel Convention and the OECD Decision are implemented into the EU through the WSR limits the ability of the EU to adopt rules, which would apply to intra-EU shipments only.

EU added value

In the absence of an EU-wide regime on transboundary movements of waste, the EU Member States would simply apply the Basel Convention and OECD Decision. The WSR provides much more detail, enables a more consistent approach and is stricter in environmental terms than these international instruments.

In all Member States, national waste transport policies have evolved in line with the WSR, even if not entirely consistently. It is likely that this evolution would have been much more divergent in the absence of the WSR, which would have had negative consequences for the sound management of waste, as well as for economic operators.

The added value of the WSR in enabling a circular economy approach in the EU should be further explored. There is a strong call to better connect the objectives of the WSR to those of the EU's ongoing transition to a circular economy and to ensure that it facilitates the most "circular" waste treatment option.