

Position Paper

Revision of the Waste Shipment Regulation

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The steel industry welcomes the release of the revision of the Waste Shipment Regulation by the European Commission. However, significant improvements are necessary to ensure effectiveness of the revised rules in contributing to the objectives of the EU Circular Economy Action Plan and the EU Green Deal.

- The so-called three "pillars", namely facilitating shipments of waste for reuse and recycling in the EU, not exporting waste challenges outside the EU and addressing illegal shipments of waste, are crucial for the European Union to adequately manage waste shipments in a clean and more circular economy and **to avoid losses of valuable resources that can be recycled in the EU**, consistently with the objectives of the EU Circular Economy Action Plan and the EU Green Deal.
- In its accompanying Communication, the European Commission recognises the steel industry as a priority sector for transitioning to a circular and climate-neutral European economy: recycling of ferrous scrap in the EU plays a fundamental role in decarbonisation, and this will become more and more relevant in the near future. Therefore, **it is essential that the potential of EU recycling is fully unlocked**, the waste domestic market functions smoothly and at the same time export of waste does occur only when comparable environmental, health and social conditions exist between the EU and third countries, and only when those conditions are verified with certainty.
- In this framework, we welcome the stronger regime proposed by the European Commission to stop exporting waste challenges outside the EU. That said, **significant improvements are necessary** to ensure that the proposed measures are implementable, effective, and that no risks of fraud or circumvention arise. The fundamental principle of environmentally sound management should apply effectively to all waste exports and to all destination countries.
- With specific reference to waste export to OECD countries and the generic monitoring procedure introduced, the proposal assumes that essential conditions are automatically met at country level and thus fails to provide a sufficiently robust mechanism to verify that this is the case and to address effectively any non-conformity. **The likely result could be simply to divert more waste export from non-OECD to OECD countries**, and that is

why more effective instruments in the hands of the European Commission and Competent Authorities are needed in order to verify that the relevant human health and environment criteria are applied consistently and rigorously. The fact that certain destination countries may be exempted from having to demonstrate the extent to which they meet these essential conditions, purely on the basis of their OECD status and without any assessment of risks or actual environmental and social conditions in such countries, is contrary to the spirit of the reform and could undermine the whole system.

- The legal presumption applied to OECD countries is **not justified** in view of the EC Impact assessment, which states that the quality of waste management systems in OECD countries is "*assumed to be of higher quality than outside the OECD*" but without any actual assessment and evidence, and despite the EC impact assessment recognising the material differences that exist including among the top 10 countries that receive waste from the EU. This approach creates a **risk of discrimination** among facilities of third countries.
 - The legal presumption applied to OECD countries is **in breach of the coherence and effectiveness principles** under Better Regulation. Despite announcing a risk-based approach, the EC proposed a procedure which in fact would be principle-based, and would provide for too many derogations and exceptions. A proper risk-based approach at country level and at the facility-level must remain as the default requirement for relevant exports to all destination countries.
 - The **safeguard procedure** for OECD countries merely addresses potential issues due to sudden increase of waste flows, without any assessment of initial baseline and associated environment, social, health and safety issues and constitutes therefore a breach of the **proportionality and subsidiarity principle** in light of the objectives pursued by the revision of WSR.
- The proposed requirement that exporters carry out audits of the facilities where exported waste will be processed is welcome, however **it is vital that the scope of those audits is defined with more clarity** and a sufficient level of details on applicable and verifiable **environmental and social** standards. Moreover, the results of those audits need to be transparently available, allowing third parties to raise any legitimate concerns they may have.
- Auditing standards should be defined in the legislative text: requirements should only allow waste to be exported subject to the guarantee that they will be processed in the

destination country under conditions equivalent to both **social¹ and environmental** standards in the EU, as called for the by the European Parliament in its Resolution of 24 November 2021 on a European strategy for critical raw materials.

- To ensure effective assessment of the equivalence, the audit should be performed by **an EU-based independent and accredited third party** which fulfil specific expertise, training, professional ethics, independence, and objectivity requirements.
 - To facilitate the work of the audit and of exporters, and in order to ensure traceability and accountability of the waste exporting and waste management process, **regular (annual) reporting and transparency requirements should apply, with access to centralised information.**
 - The Regulation should also include an **effective system of complaints**. A formal complaint mechanism should be accessible to interested third parties, whereby complaints could be directed simultaneously against the exporter and the auditor.
- In addition, the proposal contains several fundamental changes focused on controlling, improving and easing the EU internal waste shipment and market. Nonetheless, **a careful evaluation is still necessary to ensure that those changes will not lead to an additional administrative burden**, which, especially in the case of waste managed into environmentally sound and permitted treatment and recovery plants in the EU (for instance regarding industrial emissions requirements in accordance with which facilities are strictly regulated), will not necessarily help to simplify **intra-EU shipment**.
- As already mentioned, circularity is a cornerstone of the decarbonisation strategy of the European steel industry and our sector is already capable of incorporating more secondary raw materials in its production processes. Therefore, **we consider the three-year transition period before entry into force of the new requirements to be excessively and unnecessarily long**, as far as ferrous scrap is concerned.

In conclusion, the European Commission proposal is an encouraging starting point. However, the completeness and effectiveness of the new requirements with appropriate levels of oversight need to be ensured, for the final text to deliver on the objectives of the reform: the steel sector is looking forward to cooperating with the European Parliament and the European Council for improving the current text.

¹ Including the 8 fundamental ILO conventions