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FEAD feedback to the Commission's proposal for a revised Waste Shipment Regulation

FEAD, the European Waste Management Association, representing the private waste and resource management industry across Europe, welcomes the possibility to provide feedback on the proposed revision of the Waste Shipment Regulation (WSR). This revision should **bring clarity, simplification, efficiency, and effectiveness to the waste shipment rules, and establish a distinction between hazardous and non-hazardous waste, which is key to ensure high environmental health and safety protection standards.**

As a key subject for our industry, FEAD would like to address further necessary adjustments to resolve bottlenecks and to set up appropriate long-term policies, especially as regards the export and shipment provisions, the revised notification procedure, and the pre-consent of recovery facilities:

- A list of countries to which exports of non-hazardous waste for recovery are authorised is a high administrative burden for third countries, which can easily be assumed to have a disproportional deterrent effect. **To ensure a sound environmental management of exported non-hazardous waste, FEAD considers an audit certification of the specific facility in a third country, carried out by an independent and accredited third party to be sufficient.** In any case, the transitional period foreseen should be increased to 5 years.

- **FEAD strongly advocates for measures that foster recovery and recycling markets** through:
    - public support;
    - mandatory recycled content targets in sectoral legislation;
    - mandatory green public procurement criteria;
    - financial incentives (i.e., reduced VAT for products which re-incorporate raw materials from recycling); and
    - EU-wide end-of-waste criteria, to facilitate exports of raw materials from recycling inside and outside the EU.

- The provision introduced by **Article 42(2) to monitor exports grants the Commission excessively far-reaching powers** and creates considerable legal uncertainty as it includes very vague terminology.

- Shipments of mixed municipal waste for disposal should remain possible in exceptional situations.

- During the transitional period until the implementation of the electronic notification system, and as a fallback procedure, **authorities should accept e-mail correspondence as a default system, and signed documents in scanned PDF format**.

- **All authorities should accept documentation in English** under Article 27 to facilitate and streamline shipment procedures in an international environment.

- The proposed consent procedure for shipments for disposal under Article 11 needs to be clarified.

- **The general information procedure under Article 18 should not be complicated due to the implementation of an electronic notification system**. Changes to the transport should still be able to be reported if, for example, the weight of the transport changes the day of the shipment.

- The confirmation deadline for the receiving facility should not be reduced to one day and stay with the currently established three days.

- Renewal procedures of notifications should be facilitated.

- **Trade secrets must be protected under all circumstances.** Publication of rejected notifications and shipments of waste subject to the general information requirements under Article 21 should be avoided.

- **The pre-consent procedure needs to be clarified**. Requirements for a pre-consent should be objective and uniform throughout the EU, including the grounds for refusal and revocation. A permit under relevant EU legislation should be sufficient to prove a sound environmental and high-quality treatment.

- The 'same routing' under Article 13 should clearly mean the points of exit from and entry into each country concerned. Alternatively, it should be allowed to define two or three alternative routes when handing in the notification.

- Dealers or brokers acting on behalf of waste producers should be able to sign notification documents under Article 5(2), to avoid massive and unnecessary bureaucracy.

- Waste carriers should be legally responsible to fill in correctly box 5 of Annex VII documents as well as box 8 in case of movement documents.

- The WSR should include more specific provisions for shipments of hazardous waste.

- Article 30 WSR should allow for multilateral agreements between EU/EEA countries in the same geographical vicinity, for specific waste flows, for energy recovery and disposal, under special circumstances.

1. ***Waste exports and shipments: circularity in the EU and at global level***

a. Waste exports regulation

i. *General feedback to the proposed revision*

FEAD supports the introduced distinction between hazardous and non-hazardous waste for exports, and would welcome a further distinction between non-processed waste and raw materials from recycling, in line with the waste hierarchy and the promotion of a circular economy.

Regarding the export of non-hazardous waste destined for recovery in non-OECD countries, FEAD supports the introduction of environmentally sound management requirements but would like to recall that these **requirements need to be fair and transparent, and should not lead to arbitrary**

restrictions of exports in practice, due to the lack of legal security introduced by the vague terminology used in the proposal[1]. **The use of vague terminology in this context is very problematic as non-compliance means illegal shipments and their enormous legal and economic consequences.**

Per contra, **the establishment of a list of countries to which exports of non-hazardous waste for recovery are authorised is an unnecessary high administrative burden, which may lead to a de facto ban of such waste exports**, which are essential for a circular economy (see below). The introduction of such a list, to which third countries themselves must submit a request to be included, providing their detailed national waste management plans and waste management structure, among others, impose too high of a burden on those third countries, stifle innovation in the years between updates of the list, and also increase the administrative burdens on companies. This can easily be assumed to have a disproportional deterrent effect.

To ensure a sound environmental management of exported non-hazardous waste, FEAD considers an audit certification of the specific facility in a third country, carried out by an independent and accredited third party to be sufficient. We strongly oppose to any further interference by the European Commission in the waste management system and structure of the third countries themselves, which could also be seen as an encroachment in their sovereignty.

Finally, considering that a transitional period of three years is foreseen, it is essential that clear rules are defined for this period, providing e.g., for the continued application of the current legal framework. In any case, in view of the impact of the measure also on third countries, such transitional period should be extended to at least five years, which would as well allow to implement the necessary changes in other EU-legislation.

ii. *Relevance of waste exports for recovery in global markets*

FEAD strongly stands by the objectives of the Basel Convention to restrict exports of non-hazardous, untreated waste to countries (non-OECD) where their environmentally sound management cannot be ensured. Yet, it remains essential that waste operators are allowed to export waste beyond EU borders destined to be integrated as raw materials from recycling in the manufacturing process, and avoiding thus, the use of raw material.

Achieving circularity also relies upon exports beyond EU borders, where a large fraction of the global manufacturing is located. A proper level playing field between manufacturing and recycling activities is greatly needed to avoid competitive distortions deemed to be detrimental to recycling activities. It should be noted that the import, export and shipment of primary raw materials is as of today not subject to any significant restrictions inside or outside of the EU, even though they generally have much larger carbon and material footprints than raw materials from recycling.

iii. *Waste export restrictions require the strengthening of the EU recycling and recovery markets*

To tackle the increasing amounts of waste and achieve the EU circular economy objectives, FEAD considers it essential that any restrictions in the export of waste are preceded and accompanied by positive long-term policy instruments supporting and strengthening the recycling and recovery

[1] See Articles 43 and 56, where environmentally sound management in third country facilities means in accordance with protection requirements that are *broadly equivalent to the human health and environmental protection requirements laid down in Union legislation*. To fulfil this obligation, the facilities are to be subjected to an audit by an independent and accredited third party *with appropriate qualifications*.

markets in the EU. **FEAD strongly advocates for measures that foster recovery and recycling markets through:**

- **public support;**
- **mandatory recycled content targets** in sectoral legislation (extended to a wider range of products'/materials' categories);
- **mandatory green public procurement** criteria;
- **financial incentives** (i.e., reduced VAT for products which re-incorporate raw materials from recycling); and
- **EU-wide end-of-waste criteria**, to facilitate exports of raw materials from recycling inside and outside the EU.

Such measures would provide the necessary long term and significant stability in the demand for recycled materials in manufacturing processes, thus resulting in additional investments and pushing towards circular economy models.

iv. *Monitoring of exports and procedures for taking protective measures in case of exports to OECD countries under Article 42 WSR*

The provision introduced by **paragraph 2 of Article 42**, allowing the Commission to ultimately prohibit exports to a given country, **grants the Commission excessively far-reaching powers and creates a considerable legal uncertainty** as it includes very vague terminology[2]. In particular, **we see the following problematic aspects here:**

- **the power of indirectly imposing de facto export rates by the Commission, without a proper legal basis for it, and**
- **the extrapolation of the requirement of sound environmental management from the facility level (Article 43 and 56) to the country level.**

The WSR is not the tool to regulate the market. **As no export quotas are legally defined nor imposed, the amount of exported waste cannot lead to a potential export ban**. Such quotas should not be de facto introduced by the European Commission, without a legal basis for it.

Under the revised waste shipment rules, sound environmental management is a legal requirement at facility level with specific enforceable criteria (i.e., audit to be conducted by an independent and accredited third party at least every three years)[3], which are not related to the overall amount of waste shipped to a given country. **The sound environmental management is to be ensured by all exporters in any case, regardless of the amount of waste exported, and consequently to be enforced in the same way.** This means, that the monitoring power of the Commission cannot be linked to **an increase in the overall amount of waste exported to a third country** as this **is no valid indication for missing sound environmental management in its recovery facilities**.

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[2] What is a 'considerable increase' and what is a 'short period of time'?

[3] See paragraph 2 of Article 43 proposed WSR revision. The enforcement of this rule should already make it possible to have, not only sufficient evidence to demonstrate sound environmental management, but also to ensure it.

b. Shipment within the EU

i. *General feedback to the proposed revision*

Waste shipments within the EU are essential for recycling, recovery and disposal operations as facilities are becoming highly specialised and not all Member States have on their territory all facilities to treat all waste streams. Too restrictive rules would lead to critical situations in countries where certain recovery and disposal installations do not exist as well as in emergency situations.

From a systematic perspective, **the Waste Shipment Regulation** should be the instrument setting the legal framework for safe waste transfers, ensuring safe and environmentally sound practices, in accordance with the waste hierarchy and the promotion of the circular economy.[4] But it **should not be the tool to further restrict waste disposal in the EU, which is already regulated, with clear and specific targets and obligations, in dedicated legislation.**

Shipments of mixed municipal waste for disposal should remain possible in exceptional and emergency cases. Such exceptions together with the provisions introduced by Article 11 of the revised WSR guarantee that such shipments will not become a default practice.

ii. *Hazardous waste shipments*

Even within a functioning circular economy, waste will be produced that must be disposed of in an environmentally sound manner in highly specialised hazardous waste treatment plants. In addition, in some cases recycling (especially for hazardous waste) is not less harmful than recovery or disposal. It should remain possible to treat waste within Europe where the best economic and ecological outcome can be provided. Therefore, **the WSR should also include specific provisions for shipments of hazardous waste**.[5]

2. Notification procedure

a. Implementation of transitional and final electronic notification procedures

FEAD fully supports the introduction of an interoperable electronic notification procedure that can be used throughout the EU and that is easily accessible to all stakeholders and authorities involved in shipment procedures. The Commission's central system and the compatible Member States' systems should function according to the Once-Only principle.

Being a transitional period foreseen for its implementation, and being an electronic notification procedure susceptible of technical failure, **it is essential that, as an interim solution and fallback procedure:**

- **authorities accept e-mail correspondence as a default system, and**

[4] As under Recital 1, the waste hierarchy and promotion of the circular economy should also be mentioned in Article 1 WSR. See our proposal in the Annex to this position paper.

[5] Provided that Article 11 is to be understood as a derogation from Article 9 in the sense that no tacit consent is possible in shipments for disposal, specific provisions on hazardous waste should allow for tacit consent by the competent authority of transit to be assumed in transfers for waste listed in Annex IV, if no objection is lodged within the 30-day time limit referred to Article 9(1). See our proposal also to amend Article 12(1)(e) in the Annex to this position paper.

- **signed documents are also accepted in scanned PDF format.**

The experience gained during the Covid-19 crisis shows that the above-mentioned practices can be easily and quickly implemented without jeopardizing control and traceability of shipments. The same should also apply for pre-notifications and the certification of recovery and disposal operations.

The transitional period to implement the electronic notification system should be reduced, e.g., to one year. During this transitional period, its implementation should be prepared gradually through pilot projects.

b. Consent procedure

FEAD strongly supports the extension of the tacit consent to dispatch authorities and the establishment of the date of submission of the notification as the reference for the 30-days deadline (revised Article 9(1)). Also, the solved interpretation issues in relation to validity dates are welcomed.[6]

However, in cases where an explicit consent is required (i.e., for the authority of destination), **delays are still 'normalised'**, as the possibility of no response after the 30-days deadline is legally foreseen under the revised Article 9(2) WSR.[7] In addition, **the proposed consent procedure for shipments for disposal** under Article 11 **should be clarified**.[8]

Finally, **the confirmation deadline for the receiving facility should not be reduced to one day** and stay with the currently established three days, as such reduction is unnecessarily strict and will create unnecessary complications.[9]

c. Renewal procedures

A large share of notifications introduced are renewals of shipments notified and executed in the past. **Where there are no changes in the notification, a certification issued in this sense by the facility should be sufficient for a renewal procedure. Renewal procedures should also be facilitated in cases where there are no significant changes negatively affecting the quality of the treatment,** especially for shipments of non-hazardous waste, e.g., by indicating changes in the waste composition and/or involved facilities and technologies applied to the competent authority.

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[6] Authorities currently interpret the validity dates indicated on the notification document in different ways. For instance, 'last departure' in Box 6 of the notification document (Annex IA) is interpret in some cases as 'last arrival', i.e., the shipment must arrive at the destination prior to that date. This is solved now by the revised Article 9(4).

[7] See our proposal to amend Article 9(2) in the Annex to this position paper.

[8] Tacit consent is foreseen under Article 9(1) for the authorities of dispatch and transit, which is, according to the title, also applicable for disposal. No derogation of this regime is introduced by Article 11. However, Article 11(1) clearly mentions a 'written consent', which by nature excludes a tacit consent. The word 'written' should be deleted, or the term tacit should also be included in Article 11(1), i.e., 'shall only give their written or tacit consent'. Equally, the proposed Article 11(3) also stands in contradiction with the possibility of tacit consent foreseen in Article 9(1). In this case, inaction may mean at the same time consent and invalid notification. Here it should be specified that it applies only to the authority of destination (for which no tacit consent is possible), or it should be clearly stated, in general, that only written consents are possible for disposal (i.e., derogation from Article 9).

[9] See the proposed revised Articles 15(3), 16(3) and 18(4) WSR.

d. Interpretation of criteria for general notifications under Article 13 WSR

Article 13 WSR currently leads to different interpretations by different competent authorities across Member States. A consensus on the interpretation of this provision would lead to fewer notifications, without limiting control and traceability by the competent authorities:

- 'Same routing' (par. 1(c)) is unnecessarily strict. Our suggestion to define only the point of exit/entry has been included in the proposal.[10] However, this is not specified again in paragraph 2, so that a new notification is still required if the *same routing* cannot be followed.[11] Alternatively, it should be allowed to define two or three alternative routes when handing in the notification. In addition, it should be possible to hand in alternatives to truck shipment, such as sea, rail or combined transport. Consequently, it should be possible to use different vessels and trains following the same route, as it may not always be feasible to use the same one.

- 'Same producer': despite not being mentioned in Article 13, some authorities interpret the above-mentioned criteria (par.1 (a) and (c)) so as to deny the possibility of several producers. We believe that a notification should take into account the legal entity (notifier), because the financial guarantee is linked to the latter. Thus, if there are multiple producer sites under the same legal entity, the sites must be well listed. For non-hazardous waste shipments, one main notification of the legal entity with a list of the sites and tonnages shipped to a unique destination point should be sufficient.

3. Pre-consented recovery facilities under Article 14 WSR

Pre-consented facilities are currently limited in the EU, particularly because of the heavy bureaucratic burden. In this sense, we welcome the Commission's proposal according to which **recovery facilities fulfilling the requirements within the EU become pre-consented facilities following the submission of a request for pre-consent, including the extended validity period in paragraphs 9 and 12**. However, **the proposed procedure should be clarified** as to whether the approval happens at the discretion of the competent authority, or whether it is a direct consequence

[10] Paragraph 1(c) includes the clarification: '*in particular* the points of exit from and entry into each country concerned, as indicated in the notification document is the same'.

[11] Paragraph 1(c) should be: 'the routing of the different shipments, ~~in particular~~ meaning the points of exit from and entry into each country concerned, as indicated in the notification document is the same'.

of the complete submission of the request.[12] In addition, it should be specified on what grounds the pre-consent may be granted, refused and revoked.[13]

Requirements for a pre-consent should be objective and uniform throughout the EU, including the grounds for refusal and revocation. Making the granting of a pre-consent by the competent authority conditional to the fact that the pre-consent will ensure a *high-quality treatment* of the waste concerned will lead to diverging interpretations across the Member States, and even within one Member State. In this sense, objective parameters should be taken as a reference. Plants operating in the EU are already approved under relevant EU legislation and therefore meet the requirements for a sound environmental and high-quality treatment per se. No stricter requirements than such permits should apply for a pre-consent. In addition, uniform and objective parameters should also apply to the possible revocation of a pre-consent, for which currently no grounds, other than a *due motivation*, are set in the proposed revision. Revocation should be limited to the non-compliance with the same objective and uniform parameters that determine the granting of the consent.

Requiring evidence or attestation that the legal or natural person owning or exercising control over the facility has not been convicted of illegal shipment *or any other illegal act in relation to waste management* (Article 14(1)(g)) is too broad and should be limited in time to unredeemed offenses, and only cover serious and criminal, legally binding offences in relation to waste management, but not minor and administrative ones (e.g., administrative error when filling in a form or filing a document).[14]

Finally, also the pre-consent procedure should benefit from a facilitated renewal system. Further suggestions already stated on this point are:

- Administrative fees related to the pre-consent procedure should be standardized, to avoid large differences across Member States.

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[12] Under the proposed Article 14(5), the competent authority shall, within 45 days after the date of receipt of the request, *assess the request and decide whether to approve it*, whereas under paragraph 6, where the legal or natural person requesting the pre-consent has provided all the information referred to in paragraph 2, *the competent authority shall approve the request and issue a pre-consent for the facility concerned*. When reading paragraph 7, FEAD understands that the pre-consent is a direct consequence of the complete submission of the request (refusal is seen as a derogation from paragraph 6). For the sake of clarity, FEAD proposes to remove paragraph 5 and amend paragraph 6 as follows: 'Where the legal or natural person referred to in paragraph 1 has provided all the information referred to in paragraph 2, the competent authority shall approve the request and issue a pre-consent for the facility concerned within 45 days'.

[13] Under paragraph 6, the pre-consent may contain conditions necessary to ensure that the waste is *managed in an environmentally sound manner*, whereas under paragraph 7, the pre-consent may be refused when the competent authority is not satisfied that issuing the pre-consent will ensure a *high quality treatment* of the waste concerned. To ensure legal security and a uniform implementation across the Member States, or even within one Members State, it should be clarified on what grounds the pre-consent may be granted. In this case, a permit under relevant EU legislation as requested by Article 14(2)(b) should be sufficient to prove a sound environmental and high-quality treatment.

[14] This also applies to the criteria under Annex X(1)(g) to demonstrate that a facility manages waste exported form the EU in a sound environmental manner as well as to Article 11(1)(b) and Article 12(1)(f). Such convictions should be limited in time to unredeemed offenses, and only cover serious and criminal, legally binding offences in relation to waste management but not minor and administrative ones.

- Transit countries should only be allowed to raise limited objections in relation to transport safety of shipments to pre-consented facilities exclusively.

4. *Annex VII procedures*

a. Complication of the general information procedure under Article 18 WSR

The aim of the revision of the WSR was, among other, to reduce bureaucracy and simplify intra-European shipments for recovery. The present proposal achieves, however, the opposite in key provisions, such as in the procedure under Article 18, which is now more similar to the provisions on notification, including a certificate of completion by the recovery facility. **It must be ensured that changes to the transport can still be reported if, for example, the weight of the transport changes the day of the shipment.** Also here, the short notification periods represent a considerable additional effort.

b. Liability of waste carriers

The obligation to fill in transport documents lies with the person who arranges the shipment. However, many errors occur due to missing information or other aspects beyond control of the obliged party. For this reason, **waste carriers should be legally responsible to fill in correctly box 5 of Annex VII documents as well as box 8 in case of movement documents** from Annex I under the WSR.

5. *Border-area agreements under Article 30 WSR should allow for multilateral agreements*

Efficient and sound waste treatment also depends on cooperation across borders as it is not always feasible (neither financially, technologically nor environmentally) to have individual national capacity for all waste fractions. Therefore, Article 30 should open for multilateral agreements between neighbouring countries to reduce unnecessary administrative burdens. Such agreements should demonstrate that the waste covered will be treated in accordance with the waste hierarchy, the principles of proximity and self-sufficiency, as well as legally binding EU environmental protection standards (i.e., BAT-requirements, etc.).[15] For instance, the Nordic region has had a regional cooperation regarding hazardous waste under the Basel Convention since the 90s. Such extension would also allow for all-island solutions in Ireland.

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[15] See our proposal to amend Article 30 in the Annex to this position paper.

Annex: Overview of selected FEAD Proposals

Article in the proposal for a revised WSR	Text of the proposed revision to the WSR	FEAD proposal	FEAD Rationale
1	'This Regulation lays down measures to protect the environment and human health by preventing or reducing the adverse impacts which may result from the shipment of waste. It establishes 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'.	'This Regulation lays down measures to protect the environment and human health by preventing or reducing the adverse impacts which may result from the shipment of waste. It establishes 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, in accordance with the waste hierarchy and the improvement of the efficiency, which is crucial for the transition to a circular economy'.	As under Recital 1, the waste hierarchy and promotion of the circular economy should be mentioned in Article 1 WSR.
5(2)	'When the notifier is not the original waste producer referred to in Article 3, point (6)(a)(i), the notifier shall ensure that the original waste producer or one of the persons indicated in	When the notifier is not the original waste producer referred to in Article 3, point (6)(a)(i), the notifier shall ensure that the original waste producer or one of the persons indicated in Article 3, points (6)(a)(ii) or (iii) or (iv), also signs the notification document. A dealer or a broker	It is normal practice that dealers or brokers acting on behalf of waste producers or waste collectors sign notification documents with a written authorisation to act on his/her behalf

	Article 3, points (6)(a)(ii) or (iii), also signs the notification document'.	shall be authorised in writing by the original waste producer, new waste producer or waste collector to act on his/her behalf as notifier.	as notifier. This amendment would avoid unnecessary bureaucracy.
9(2)	'Where, within 30 days after submission of the notification, the competent authority of destination has not taken a decision under paragraph 1, it shall provide the notifier with a motivated explanation upon request'.	'Where the competent authority of destination is not able to take a decision under paragraph 1 within 30 days after submission of the notification, it shall inform the notifier, providing a motivated explanation within the aforementioned 30-day time limit'.	FEAD supports the extension of the tacit consent also to dispatch authorities as a way to streamline the consent procedure. However, in cases where an explicit consent is required (i.e., for the authority of destination), **delays are 'normalised'** in the proposal, as the possibility of no response after the 30-days deadline is legally foreseen under Article 9(2). Competent authorities often favour unnecessary bureaucracy over the safe and timely movement of waste, thereby causing significant delays in reaching their destination (3-6 months, on average). Despite the WSR setting time limits for the notifier and the authorities, these limits are, in practice, seldomly respected by the latter. These delays entail additional costs for operators due to storage costs, extra administrative burden derived from chasing approval and potentially losing customers in Member States due to a decrease in competitiveness, entailed by the long delays.

9(4)	The planned shipment may take place only after fulfilment of the requirements set out in Article 16(1), points (a) and (b), and during the period of validity of the tacit or written consent of all competent authorities concerned. A shipment shall have left the country of dispatch by the end of the period of validity of the tacit or written consents of all competent authorities concerned.	The planned shipment may take place only after fulfilment of the requirements set out in Article 16(1), ~~points (a) and (b),~~ and during the period of validity of the tacit or written consent of all competent authorities concerned. A shipment shall have left the country of dispatch by the end of the period of validity of the tacit or written consents of all competent authorities concerned.	Points (a) and (b) do not exist in Article 16(1).
11(1)	'Where a notification is submitted regarding a planned shipment of waste destined for disposal in accordance with Article 5, the competent authorities of dispatch and of destination shall only give their written consent to that shipment, within the 30-day limit referred to in Article 9(1) (…)'.	'Where a notification is submitted regarding a planned shipment of waste destined for disposal in accordance with Article 5, the competent authorities of dispatch and of destination shall only give their ~~written~~ consent to that shipment, within the 30-day limit referred to in Article 9(1) (…)'. **Alternative:** 'Where a notification is submitted regarding a planned shipment of waste destined for disposal in accordance with Article 5, the competent authorities of dispatch and of destination shall only give their written or tacit consent to that shipment, within the 30-day limit referred to in Article 9(1) (…)'.	Tacit consent is foreseen under Article 9(1) for the authorities of dispatch and transit, which is, according to the title, also applicable for disposal. No derogation of this regime is introduced by Article 11. However, Article 11(1) clearly mentions a 'written consent', which by nature excludes a tacit consent. Otherwise, it should be clearly stated in general, that only written consents are possible for disposal (i.e., derogation from Article 9).
11(3)	'Where the competent authorities concerned have not authorised a planned shipment of waste destined for disposal within the 30-day time limit referred to in Article 9(1), the notification of that shipment shall cease to be valid and the shipment shall be prohibited in accordance with Article 4(1). In cases where the notifier still intends to carry out the	'Where the competent authorities of destination ~~concerned~~ have not authorised a planned shipment of waste destined for disposal within the 30-day time limit referred to in Article 9(1), the notification of that shipment shall cease to be valid and the shipment shall be prohibited in accordance with Article 4(1). In cases where the notifier still intends to carry out the shipment, a	The proposed Article 11(3) also stands in contradiction with the possibility of tacit consent foreseen in Article 9(1). In this case, inaction may mean at the same time consent and invalid notification. Here it should be specified that it applies only to the authority of destination

	shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise'.	new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise'.	(for which no tacit consent is possible), or it should be clearly stated in general, that only written consents are possible for disposal (i.e., derogation from Article 9). Provided that the latter is the case, tacit consent by the competent authority of transit should be assumed for waste listed in Annex IV if no objection is lodged within the 30-day time limit referred to Article 9(1). The critical size necessary to create and operate the highly specialised and technical plants to treat hazardous waste does not allow for their replication in each MS. For this reason, waste transfers are essential in order to ensure an effective hazardous waste recovery and treatment that protects the environment and human health, and the WSR should also include specific provisions for such shipments.
12(1)(e)	'limiting incoming shipments of waste destined for recovery operations other than recycling and preparing for re-use is necessary for a Member State in order to protect its waste management network, where it is established that such shipments would result in domestic waste having to be disposed of or treated in a way that is not consistent with their waste management plans'.	'limiting incoming shipments of waste destined for recovery operations other than recycling and preparing for re-use is necessary for a Member State in order to protect its waste management network, where it is established that such shipments would result in domestic waste having to be disposed of or treated in a way that is not consistent with their waste management plans, provided, for the waste listed in Annex IV, that said national waste can be treated or eliminated on national waste management network in	The critical size necessary to create and operate the highly specialised and technical plants to treat hazardous waste does not allow for their replication in each MS. For this reason, waste transfers are essential in order to ensure an effective hazardous waste recovery and treatment that protects the environment and human health, and

		technically feasible and economically viable manner for waste treatment and disposal facilities'.	the WSR should also include specific provisions for such shipments.
13(1)(c)	'the routing of the different shipments, in particular the points of exit from and entry into each country concerned, as indicated in the notification document is the same'.	'the routing of the different shipments, ~~in particular~~ meaning the points of exit from and entry into each country concerned, as indicated in the notification document is the same'.	Par. 1(c)) is unnecessarily strict, by requiring to use the exact same route as indicated in the transport document. We suggested to define only the point of exit/entry, which has been included in the proposal. However, this is not specified again in paragraph 2, so that a new notification is still required if the *same routing* cannot be followed, and this is known before the shipment starts.
14(5) and 14(6)	5. 'The competent authority shall, within 45 days after the date of receipt of the request referred to in paragraph 1, assess the request and decide whether to approve it'; 6. 'Where the legal or natural person referred to in paragraph 1 has provided all the information referred to in paragraph 2, the competent authority shall approve the request and issue a pre-consent for the facility concerned. The pre-consent may contain conditions relating to the duration of the pre-consent, the types and quantities of waste covered by the pre-consent, the technologies used or other conditions necessary to ensure that the waste is managed in an environmentally sound manner'.	~~5. 'The competent authority shall, within 45 days after the date of receipt of the request referred to in paragraph 1, assess the request and decide whether to approve it';~~ 6. 'Where the legal or natural person referred to in paragraph 1 has provided all the information referred to in paragraph 2, the competent authority shall approve the request and issue a pre-consent for the facility concerned within 45 days. The pre-consent may contain conditions relating to the duration of the pre-consent, the types and quantities of waste covered by the pre-consent, the technologies used or other conditions necessary to ensure that the waste is managed in an environmentally sound manner'.	It is unclear whether the approval happens at the discretion of the competent authority, or whether it is a direct consequence of the complete submission of the request. When reading paragraph 7, FEAD understands that the pre-consent is a direct consequence of the complete submission of the request (refusal is seen as a derogation from paragraph 6) and therefore paragraph 5 should be deleted.

14(7)	7. ‘By way of derogation from paragraph 6, the competent authority may refuse to approve the request for pre-consent when they are not satisfied that issuing the pre-consent will ensure a high quality treatment of the waste concerned’.	7. ‘By way of derogation from paragraph 6, the competent authority may refuse to approve the request for pre-consent when they are not satisfied that issuing the pre-consent will ensure a high quality treatment of the waste concerned according to the permits issued to the recovery facility to carry out waste treatment pursuant to Article 23 of Directive 2008/98/EC’.	Plants operating in the EU are already approved under relevant EU legislation and therefore meet the requirements for a sound environmental and high-quality treatment per se, so that no stricter requirements should apply for a pre-consent. Revocation should be limited to the non-compliance with the same objective and uniform parameters that determine the granting of the consent.
15(3)	‘Within one day of the receipt of the waste by the facility which carries out the interim recovery operation or interim disposal operation, that facility shall provide confirmation to the notifier that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document’.	‘Within ~~one~~ three days of the receipt of the waste by the facility which carries out the interim recovery operation or interim disposal operation, that facility shall provide confirmation to the notifier that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document’.	Such reduction is unnecessarily strict and will create unnecessary complications.
16(3)	‘The facility shall, within one day of receipt of the waste, provide confirmation to the notifier and the relevant authorities that the waste has been received’.	‘The facility shall, within ~~one~~ three days of receipt of the waste, provide confirmation to the notifier and the relevant authorities that the waste has been received’.	Such reduction is unnecessarily strict and will create unnecessary complications.
18(4)	‘The recovery facility or the laboratory and the consignee or, in case they have no access to a system referred to in Article 26, the person referred to in paragraph 2 shall, within one day of receipt of the waste, provide confirmation to the notifier and the relevant authorities that the	‘The recovery facility or the laboratory and the consignee or, in case they have no access to a system referred to in Article 26, the person referred to in paragraph 2 shall, within ~~one~~ three days of receipt of the waste, provide confirmation to the notifier and the relevant	Such short one-day deadline is unnecessarily strict and will create unnecessary complications.

	waste has been received by completing the relevant information contained in Annex VII'.	authorities that the waste has been received by completing the relevant information contained in Annex VII'.	
21	The competent authorities of dispatch or destination shall make publicly available by appropriate means information on notifications of shipments they have consented or objected to, as well as on shipments of waste subject to the general information requirements, where such information is not confidential under national or Union legislation.	The competent authorities of dispatch or destination shall make publicly available by appropriate means information on notifications of shipments they have consented ~~or objected to, as well as on shipments of waste subject to the general information requirements~~, where such information is not confidential under national or Union legislation.	The publication obligations from the proposed Article 21 WSR are too extensive and at the same time too vague when referring to national and European legislation on the protection of confidential data. This raises the question of the concrete implementation. A publication must protect trade secrets under all circumstances. Publication of rejected notifications and shipments subject to general information requirements should be definitely avoided.
30	1. In exceptional cases, and where the specific geographical or demographical situation warrants such a step, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned. 2. The bilateral agreements referred to in paragraph 1 may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State.	Article 30 ~~Border-area~~ Multilateral agreements 1. ~~In exceptional cases, and where the specific geographical or demographical situation warrants such a step,~~ Neighboring Member States may conclude ~~bilateral~~ multilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to a ~~the nearest~~ suitable facility ~~located in the border area between the two Member States concerned.~~ Such agreements must demonstrate that the waste is treated in accordance with the waste hierarchy and the principles of proximity and self-sufficiency at Union and national levels as laid down in Directive	Efficient and sound waste treatment also depends on cooperation across borders. There are many areas within the EEA/EU where it is not feasible for individual countries to have individual national capacity for all waste fractions, neither financially, technologically nor environmentally. For these reasons, Article 30 should open for multilateral agreements between neighbouring countries, where such agreements demonstrate that the waste covered will be treated in accordance with the

	3. Member States may also conclude bilateral agreements referred to in paragraph 1 with countries that are parties to the Agreement on the European Economic Area. 4. The agreements referred to in this Article shall be notified to the Commission before they take effect.	2008/98/EC and that the waste is treated in accordance with legally binding environmental protection standards in accordance with Union legislation, and, if the facility is covered by Directive 2010/75/EU, it shall apply best available techniques as defined in Article 3(10) of that Directive in compliance with the permit of the facility; 2. The ~~bilateral~~ agreements referred to in paragraph 1 may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State. 3. Member States may also conclude ~~bilateral~~ agreements referred to in paragraph 1 with countries that are parties to the Agreement on the European Economic Area. 4. The agreements referred to in this Article shall be notified to the Commission before they take effect.	waste hierarchy, the principles of proximity and self-sufficiency, as well as legally binding EU environmental protection standards (i.e. BAT-requirements, etc.) in order to reduce unnecessary administrative burdens.
35(1)	'Where waste is exported from the Union to an EFTA country that is a Party to the Basel Convention and destined for disposal in that country, the provisions of Title II shall apply mutatis mutandis, with the adaptations and additional provisions set out in paragraphs 2 and 3'.	'Where waste is exported from the Union to an EFTA country that is a Party to the Basel Convention and destined for disposal in that country, the provisions of Title II shall apply mutatis mutandis, with the adaptations and additional provisions set out in paragraphs 2, 3 and 4'.	Paragraph 4 also sets further specific requirements, e.g., no tacit consent possible + sound environmental management requirement.