



Brussels, 8 November 2018
(REV1 - replaces the notice to
stakeholders published on 8 February
2018)

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU WASTE LAW

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, relevant stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, EU waste law no longer applies to the United Kingdom. This has in particular the following consequences with regard to shipments of waste:

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

1. TRANSBOUNDARY SHIPMENTS OF WASTE⁴

1.1. Prohibitions of waste shipments

Articles 34 and 3(5) of Regulation (EC) No 1013/2006 on shipments of waste⁵ prohibit the export of

- waste for disposal; and
- mixed municipal waste⁶ for recovery operations

from the EU to a third country, unless it is a member of the European Free Trade Association (EFTA) and a party to the Basel Convention. Consequently, as of the withdrawal date all exports of waste for disposal and the export of mixed municipal waste for recovery from the EU-27 to the United Kingdom will be prohibited.

Imports of waste into the EU-27 will be governed, as of the withdrawal date, by Title V of Regulation (EC) No 1013/2006, whereby imports of waste from a third country party to the Basel Convention remains allowed, subject to the requirements set out in that Regulation.⁷

1.2. Consents issued prior to the withdrawal date

Article 9 of Regulation (EC) No 1013/2006 requires the "consent" by the competent authorities of destination, dispatch and transit of notified waste shipments.

For consents issued by competent authorities of Member States of the EU-27 prior to the withdrawal date for shipments as of the withdrawal date, the following applies:

- Where the shipment is prohibited under Regulation (EC) No 1013/2006, the consent becomes void.

⁴ In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom for movements of goods that have started before and end after the end of the transition period ("sailing goods"). See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

⁵ OJ L 190, 12.7.2006, p. 1.

⁶ Mixed municipal waste (waste entry 20 03 01 in accordance with the Commission Decision 2000/532/EC on the list of waste, OJ L 226, 6.9.2000, p. 3) collected from private households, including where such collection also covers such waste from other producers.

⁷ Regarding notifications of imports, see also the "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

- Where shipments are not *per se* prohibited, the change of the status of the United Kingdom from a Member State to a third country is an essential change under Article 17 of Regulation (EC) No 1013/2006. In accordance with Article 17(2) of Regulation (EC) No 1013/2006, in case of such an essential change, a new notification shall be submitted, unless all the competent authorities concerned consider that the proposed changes do not require a new notification.

Even if all competent authorities concerned consider that a new notification is not required, it is recalled that the requirements for waste shipments between the EU and the United Kingdom - which, after its withdrawal from the EU, remains a Party to the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous waste and their disposal, as well as an "OECD-Decision country"⁸ - will be subject to the conditions set out in Articles 38(3)(a),(b),(c) and (e) and 42(3)(b),(c) and (d) of Regulation (EC) No 1013/2006 which may require *inter alia*:

- The competent authorities concerned to send a stamped copy of their decisions to consent to the relevant customs offices (e.g. customs offices of exit or entry);
- The carrier to deliver a copy of the movement document to the relevant Union customs offices (e.g. customs offices of exit or entry);
- The relevant Union customs offices to send where applicable a stamped copy of the movement document to the competent authority of dispatch, transit and destination in the Union stating that the waste has either left or entered the Union;
- In case of an export from the Union, for the contract associated with the notification to stipulate certain obligations for the consignee of the waste and for the treatment facility.

In addition, the notification will have to contain information of the customs offices of entry and exit.⁹

2. EU WASTE MANAGEMENT TARGETS AND RECOVERY OPERATIONS IN THIRD COUNTRIES

Where recovery of waste generated in the EU Member States takes place outside the EU, Member States can count that waste towards the fulfilment of their EU waste management targets depending on the treatment conditions outside the EU. In particular

⁸ I.e. a country to which Decision C(2001)107/FINAL of the OECD Council applies, see Article 2(17) of Regulation (EC) No 1013/2006.

⁹ "Block 16" of the notification document. See Annex 1A and point 44 of annex 1C of Regulation (EC) No 1013/2006.

- Exports of waste electrical and electronic equipment for treatment in the United Kingdom will be counted towards the waste management targets of Directive 2012/19/EC on waste electrical and electronic equipment¹⁰ if there is sound evidence that the treatment of that waste in the United Kingdom takes place in conditions that are equivalent to the requirements of that Directive.¹¹
- Exports of waste batteries and accumulators for treatment in the United Kingdom will be counted towards the waste management targets of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators¹² if there is sound evidence that the treatment of that waste in the United Kingdom takes place in conditions that are equivalent to the requirements of that Directive.¹³
- Exports of municipal waste for preparation for reuse and recycling, and exports of construction and demolition waste for preparation for reuse, recycling and other material recovery in the United Kingdom will be counted towards the waste management targets of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste¹⁴ if there is sound evidence showing compliance of the shipment with the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council¹⁵, and in particular Article 49(2) thereof.¹⁶
- Exports of packaging and packaging waste can be counted towards the waste management targets of the European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste¹⁷ if there is sound evidence that the recovery and/or recycling in the United Kingdom takes place under conditions that are broadly equivalent to those prescribed by the Union legislation on the matter,¹⁸ including the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council,¹⁹ and in particular Article 49(2) thereof.

¹⁰ OJ L 197, 24.7.2012, p. 38.

¹¹ Article 10(2) of Directive 2012/19/EC.

¹² OJ L 266, 26.9.2006, p. 1.

¹³ Article 15(2) of Directive 2006/66/EC.

¹⁴ OJ L 312, 22.11.2008, p. 3.

¹⁵ OJ L 190 12.7.2006, p. 1.

¹⁶ Article 2(5) of Commission Decision 2011/753/EU of 18 November 2011 establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council, OJ L 310, 25.11.2011, p. 11.

¹⁷ OJ L 365, 31.12.1994, p. 10.

¹⁸ Article 4(1) of Commission Decision 2005/270/EC establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste, OJ L 86, 5.4.2005, p. 6.

¹⁹ OJ L 190 12.7.2006, p. 1.

- Exports of end-of life vehicles can be counted towards the waste management targets of Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles²⁰ if there is sound evidence that the recovery and/or recycling in the United Kingdom takes place under conditions that are broadly equivalent to those prescribed by the Union legislation on the matter,²¹ including Regulation (EC) No 1013/2006 of the European Parliament and of the Council,²² and in particular Article 49(2) thereof.

The website of the Commission on waste policy (<http://ec.europa.eu/environment/waste/index.htm>) provides general information concerning shipments of waste and the recycling of specific waste streams. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Environment

²⁰ OJ L 269, 21.10.2000, p. 34.

²¹ Article 2(1) of Commission Decision 2005/293/EC of 1 April 2005 laying down detailed rules on the monitoring of the reuse/recovery and reuse/recycling targets set out in Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles, OJ L 94, 13.4.2005, p. 30.

²² OJ L 190 12.7.2006, p. 1.