

30 June 2020

Fortum calls for stronger enforcement and improvements of the Waste Shipment Regulation, WSR

Policy paper from Fortum on the review of the Waste Shipment Regulation

Fortum Corporation offers clean energy solutions as well as solutions to improve resources efficiency. Fortum Waste Solutions (FWS), a part of Fortum Corporation, is one of the major waste management companies in the EU and represented mainly in the Nordic Countries, but it also has activities throughout Europe. FWS is a player in the transition to a circular economy within EU through its waste treatment, decontamination of waste streams and recycling of waste to generate valuable secondary raw materials. In addition, FWS offers remediation of contaminated sites and supplies cities with recovered energy. In doing so, FWS saves natural resources and prevents waste that can harm the environment and human health from ending up where it should not.

With this policy paper Fortum wants to share its extended view on the policy objectives as well as on the expert stakeholder questionnaire addressed by the Waste Shipment Regulation Impact Assessment – Public Consultation (May 2020). In summary, Fortum supports the objectives to a great extent but would suggest an extended scope and additional topics to be addressed within each objective.

First policy objective: the WSR should support the transition to a circular economy in the EU more effectively

The preamble to the WSR states: *“The main and predominant objective and component of this Regulation is the protection of the environment, its effects on international trade being only incidental.”* This objective should remain the overall and primary aim of the Regulation. The main purpose of the WSR is therefore not to support the transition to a circular economy within the EU. At the same time, the WSR should not create unnecessary obstacles for that transition; rather, as far as possible, it should facilitate the transports of waste, not only green-listed, for recovery and use as secondary raw material, while maintaining a high level of environmental protection. Possible measures to achieve this within the framework of the review of the WSR are:

- Address waste leakage from the EU. This is one of the root causes of the lack of investments in recycling capacity in the EU. Addressing this concern and making “recycled in the EU” a benchmark for high-quality secondary materials would significantly promote investments in recycling and help transition to the EU’s circular economy.
- The free trade on the internal market supporting circular economy activities, including shipments of waste between Member States, requires EU legislation to be adequately and equally enforced.
- Introduce separate rules for transports of waste destined for the testing of recovery technologies. This would facilitate investments in innovative and additional treatment capacity for recovery.

- A facilitated notification procedure for non-hazardous waste for recovery, for which currently the same notification procedure applies as for hazardous waste. This includes unlisted waste and waste that requires special consideration according to the Basel convention.
- Recognise the importance of decontamination of material cycles in the WSR. One well established decontamination technology is waste incineration applying Best Available Techniques.
- Facilitate the procedure for renewal of an existing consent for transports under the same conditions as in the previous consent.
- Allow changes in amounts for an existing valid consent for recovery so that the need for a renewal can be postponed.
- Ensure that the concept with pre-consented recovery facilities, which allows consents for transports for three years instead of one, is accepted and applied in all Member States and that the permit process for pre-consented facilities is facilitated.
- Introduce an EU-wide harmonised electronic system for waste shipment procedures. Such a system should include a common reporting system for the traceability of hazardous waste as well as registration of the carriers holding the necessary permits for waste transports within the EU.
- Allow two different routes, including different means of transport, in the same notification.
- Introduce common templates for notification contracts between the notifier and the consignee, accepted by competent authorities in all Member States.
- Require all consents/objections provided by authorities to be also provided in the national language of the notifier or as an English-language version.

Together, many of these measures would reduce unnecessary administrative burdens for the companies and the competent authorities involved. History has shown that the measures cannot be achieved on a voluntary basis in each Member State; therefore, changes to the articles in the WSR are necessary. Fortum can provide more detailed suggestions and comments on such changes.

Second policy objective: Restrict the export of EU waste to third countries

The export of waste to third countries outside the EU shall be subject to equally high environmental and human health protection requirements and controls as waste transports within the EU. If this cannot be ensured, no export shall be supported or allowed.

Third policy objective: Strengthen the enforcement of the Waste Shipment Regulation's provisions

A strengthening in the enforcement of the Waste Shipment Regulation's provisions can be seen from different perspectives. A focus on illegal shipments/treatments, as addressed in the Public consultation, is one important aspect strongly supported by Fortum. But stronger

enforcement of the WSR-specified time limits for transmissions, acknowledgements and consents/objections by competent authorities for legal transports is also necessary. This might even support fighting illegal transports.

Delays by authorities in the approval procedure for written notifications are very common. This violates the rules of the regulation. The time limits specified in the WSR for written notifications are: three working days for transmission/acknowledgement of a notification or request for additional information by the competent authorities; and 30 days for their decision on whether to object to shipments or to give their consent. These time limits are regularly exceeded by the authorities, without any viable reason and without incurring consequences. The ones negatively affected by these violations are the parties involved in the notification. Not only does it make planning difficult, but the delay can also shorten the valid periods for the consent since many authorities are not willing to adjust the shipping period to start on the day the consent is issued – even if the WSR gives them this possibility.

Expert stakeholder questionnaire

In addition to the statements above, Fortum has the following comments regarding the Expert stakeholder questionnaire.

1. **First policy objective: more effectively support the transition to a circular economy**

1A Align the Waste Shipment Regulation with the waste hierarchy and with existing EU legislation

The importance of decontamination of material cycles and safe disposal of harmful substances must be recognised in the WSR. This is a pre-condition for a sustainable transition to a circular economy. For some waste streams, such as Persistent Organic Pollutants, destruction is the only viable solution. One well established decontamination technology for this is waste incineration applying Best Available Techniques, which include recovery of energy. For other waste streams, such as mercury, safe disposal underground is recognised as the safest long-term solution. Shipments for disposal operations for decontamination should therefore not be further limited or prohibited.

Fortum’s view on waste hierarchy in a safe Circular Economy



1B Simplification and reduction of administrative burden linked to the implementation of the WSR

This is a very important topic to address.

A common Electronic Data Interchange (EDI) system would be even more facilitative if it includes also traceability of hazardous waste and current information on carriers holding the necessary permits for the transport of waste/hazardous waste.

Financial guarantees should be granted by the ones involved in the shipments. If a company cannot provide the necessary financial guarantees, it should not be involved in transboundary shipments of waste. We see no benefits for the EU or serious stakeholders to change the present requirements on financial guarantees or to set up an EU fund for this purpose.

Fortum does not quite understand the suggested measure “Issue guidance on improving efficiency and simplifying the implementation of provisions related to the prior written notification and consent procedures.” There is already guidance on the WSR; the problem is that the obligations arising from the Regulation are not fulfilled by the parties involved. The WSR is a regulation, so provisions are not implemented in national legislation; they apply directly in all Member States.

1C Harmonisation of interpretation, application and enforcement across Member States

Fortum recognises the intention of Article 28 in the WSR that the worst case should apply if there are classification disagreements between Member States. This approach already includes a mutual recognition of national classification on whether a commodity is waste or not in the case of shipments and whether a waste should be classified as hazardous or non-hazardous. The definition and application of end-of-waste criteria, and a common understanding on this, is a very important topic to address; however, it should be done within the work under the EU Waste Framework Directive, not the WSR.

Information on bilateral agreements on waste shipment-related topics, end-of-waste decisions etc. could be included in the EDI system mentioned under 1B.

1D better adapt to technical progress and stimulation of innovation

Separate rules for transports of waste destined for testing of recovery technologies would stimulate innovation supporting a circular economy. Today this possibility is limited to 25 kg.

2. Second policy objective: Restrict the export of EU waste to third countries

2A Restrict the export of EU waste outside the EU

Fortum supports the Commission’s view that the EU should stop exporting its waste challenges outside of the EU. In particular, exports of waste that have harmful environmental and health impacts in third countries or can be treated domestically within the EU should be restricted, e.g. by focusing on countries of destination, problematic waste streams, types of waste operations that are a source of concern.

2B Verify environmentally sound management of waste exported outside the EU

EU environmental protection legislation, e.g. Best Available Techniques, already gives consideration to what environmentally sound waste management is.

Compliance with all standards and legal requirements should be proved by the exporter (using third-party audits as an option) and not by an EU agency making audits in third countries.

2C Better classify shipped waste as hazardous or mixed/contaminated when exporting waste from the EU

See comments on 1C.

3. Strengthen the enforcement of the Waste Shipment Regulation's provisions

This is a very important topic to address, and Fortum wants to particularly address strengthening the enforcement of also legal transports with a focus on the competent authorities being required to fulfil their obligations within the time limits specified in the WSR.

We will gladly take part in a follow-up interview; we would like to receive the questions at least one week in advance.

Martina Melander

Public Affairs Manager, Circular Economy
Fortum Corporate Affairs and Communications

martina.melander@fortum.com

+46 70 375 78 64