

# Waste Shipment Regulation Impact Assessment – Public Consultation

Fields marked with \* are mandatory.

## Introduction

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### 1.1 Background to the consultation

Waste shipped across borders can generate risks for human health and the environment, especially when not controlled and managed properly. At the same time, traded wastes often have a positive economic value: they can be prepared for re-use, e.g. through repair, upgrade or re-manufacture, or recycled as secondary raw materials, thereby contributing to a more circular economy.

The existing [Waste Shipment Regulation](#) (WSR) was adopted in 2006 (Regulation (EC) No 1013/2006). This Regulation lays down procedures and control regimes for transboundary shipments of waste. It implements into EU law international rules on the matter, but also contains stricter provisions. The WSR requires those involved in waste shipments to ensure that shipments of waste and their treatment operations are managed in a way that protects the environment and human health against any adverse effects that might result from such shipments. The “Environmentally Sound Management” or “ESM” of waste is thereby a vital factor. The WSR sets out control mechanisms for the export and import of waste from the EU to third countries, as well as for shipments between EU Member States. The types of controls under the WSR depend on the characteristics of the waste (for example hazardous, non-hazardous), its destination and its treatment as part of recovery (for example recycling) or disposal (for example landfilling) operations. The WSR also lays down export prohibitions for certain categories of waste and certain destinations: the most important example is the prohibition to export hazardous waste from the EU to non-OECD countries.

The [European Commission’s Green Deal](#) envisages measures to mobilise industry for a clean and circular economy. It also sets out the Commission’s view that the EU should stop exporting its waste outside the EU, and so review the rules on waste shipments. The [new Circular Economy Action Plan](#) announces that the review “will aim at restricting exports of waste that have harmful environmental and health impacts in third countries or can be treated domestically within the EU (...)”. It also stresses the need for action to facilitate preparing for re-use and recycling of waste in the EU, to support the acceleration of the transition to a circular economy.

In addition, Article 60(2a) of the WSR calls on the Commission to carry out a review of this Regulation by 31 /12/2020.

In accordance with the Better Regulation Guidelines, in 2019 an evaluation was performed as the first step in this process to check whether the WSR is meeting its objectives using the criteria of: (i) effectiveness, (ii) efficiency, (iii) coherence, (iv) relevance and (v) EU added value. This evaluation acknowledged the overall

strengths of the existing Regulation, but identified several areas of potential improvement. Further information in relation to the evaluation can be found in the recently published Commission [Staff Working Document](#) .

Following this evaluation, and in order to implement the new policy objectives defined in the European Green Deal and the new Circular Economy Action Plan, the Commission is now conducting an impact assessment. Its purpose is to assess the need for further EU action in relation to the WSR, to evaluate policy options and to assess the potential economic, social and environmental impact of those policy options.

The options under consideration in the impact assessment are examined in light of the following policy objectives:

1. To facilitate preparing for re-use and recycling of waste in the EU and ensure a smooth functioning of the EU internal market for waste destined for preparation for re-use or recycling, thereby supporting the transition to Circular Economy models and adding value to waste in the EU. One important element therein is to simplify and reduce unnecessary administrative burdens linked to the implementation of the WSR;
2. To restrict exports of waste outside the EU that have potentially harmful environmental and health impacts in third countries or can be treated domestically within the EU. This should help ensure the environmentally sound management of waste in the EU and in third countries, by focusing on countries of destination, problematic waste streams, and types of waste operations that are a source of concern;
3. To strengthen enforcement of the WSR and control of waste shipments in order to better address illegal shipments of waste within the EU as well as illegal exports to third countries.

This consultation will be complemented by targeted interviews with stakeholders and by a dedicated workshop, tentatively planned for Q2 or Q3 2020.

## About you

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### \* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic

- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

\* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

\* First name

Emilie

\* Surname

Bartolini

\* Email (this won't be published)

\* Organisation name

*255 character(s) maximum*

American Chamber of Commerce to the European Union (AmCham EU)

\* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

\* Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan         | <input type="radio"/> Djibouti           | <input type="radio"/> Libya            | <input type="radio"/> Saint Martin                     |
| <input type="radio"/> Åland Islands       | <input type="radio"/> Dominica           | <input type="radio"/> Liechtenstein    | <input type="radio"/> Saint Pierre and Miquelon        |
| <input type="radio"/> Albania             | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania        | <input type="radio"/> Saint Vincent and the Grenadines |
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- Australia
- Austria
- Azerbaijan
  
- Bahamas
- Bahrain
  
- Bangladesh
  
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
  
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
  
- Fiji
- Finland
- France
  
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
  
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
  
- Grenada
- Guadeloupe
  
- Guam
  
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
  
- Guyana
- Haiti
  
- Mauritania
- Mauritius
- Mayotte
  
- Mexico
- Micronesia
  
- Moldova
  
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
  
- Nepal
  
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
  
- Niger
- Nigeria
  
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
  
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
  
- Syria
  
- Taiwan
- Tajikistan
- Tanzania
- Thailand
  
- The Gambia
- Timor-Leste

- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam

- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

What is your area of activity / what is the sector whose interests you represent?

*at least 1 choice(s)*

- Waste disposal, including incineration without energy recovery
- Waste sorting
- Incineration of waste with energy recovery
- Waste recycling
- Preparation of waste for re-use (reuse centre, repair or refurbishment activities)
- Other treatment of waste
- Shipment of waste within the European Union only
- Shipment of waste towards all countries (inside or outside of the EU)
- Other economic activity, generating waste
- Other economic activity, using recycled materials or items prepared for re-use

How many persons /employees do you represent (= your direct paying members or the employees / paying members of your affiliated organisations) ?

- 10 million and above
- 1 million to 9.999.999
- 100.000 to 999.999
- 10.000 to 99.999
- less than 10.000

## Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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## \* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

**Public**

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

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## Questions to the general public on the policy objectives of the review of the Waste Shipment Regulation and on how to pursue them.

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In this section, we would like to seek your views on how important it is to pursue a number of policy objectives in the review of the WSR.

Further below there are more in depth questions that target those that are more familiar with the detailed processes related to waste shipment and the implementation of the WSR. At the end of the questionnaire the opportunity is provided to opt-in for targeted stakeholder interviews and to upload one document supporting and detailing your views and opinions.

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

It is often argued that the WSR does not effectively support the creation of a safe and yet dynamic internal market for secondary raw materials, which is an important component of a Circular Economy: it does not align sufficiently with the waste hierarchy as outlined in the EU waste legislation (The waste hierarchy sets out that, when implementing waste policy, the following priority order should be followed: prevent waste, preparation for re-use, recycling, incineration with energy recovery, incineration without any energy recovery or landfilling, in descending order) and some of its procedures do not facilitate the transboundary movements of waste for preparation for re-use or recycling within the EU as far as they could (e.g. because of administrative burdens or of inconsistent implementation by the Member States), and may instead facilitate the movements of waste for incineration or disposal.

The transition towards a circular economy is now a key priority for the EU. This was not the case when the WSR was adopted in 2006, and this is why it did not feature as an explicit objective of the current regulation.

We are seeking your views on the relevance of this policy objective, as well as on measures considered to pursue it within a review of the Waste Shipment Regulation.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to:

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
More effectively support the transition to a circular economy.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Make the movement of waste easier within the EU when destined for preparation for reuse or for recycling.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Make the movement of waste more difficult within the EU when destined for incineration with energy recovery.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Make the movement of waste more difficult or even impossible within the EU when destined for disposal (e.g. incineration without energy recovery, landfilling).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Improve the efficiency of the procedures and administration for both competent authorities and companies shipping waste between Member States, e.g. by obliging the use of an EU wide harmonized electronic system (instead of the current paper-based procedures).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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**Second policy objective: Restrict the export of EU waste to third countries**

Significant volumes of waste are exported outside the EU, often without sufficient control of the conditions under which the waste is managed in the destination countries, especially in developing countries. This can harm the environment and public health in destination countries and can be a loss of valuable resources for the EU industry. The provisions of the WSR do not appear sufficient to address this situation. The WSR makes a distinction between export to OECD countries and export to countries which are not in the OECD area. The OECD is the Organisation for Economic Cooperation and Development and includes in addition to most EU Member States, the following countries: Canada, USA, Mexico, Chile, Israel, Turkey, Norway, Switzerland, Iceland, United Kingdom, Australia, New Zealand, South Korea and Japan.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to:

	Strongly Agree	Agree	Disagree	Strongly disagree	No opinion
Keep the current EU rules on export of waste unchanged but increase their enforcement	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Regarding export of waste to non-EU OECD countries

	Strongly Agree	Agree	Disagree	Strongly disagree	No opinion
Ban the export of waste to non-EU OECD countries	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Ban the export of waste to non-EU OECD countries, unless there is clear evidence that it will be processed in an environmentally sound manner	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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### Regarding export of waste to non-OECD countries only

	Strongly Agree	Agree	Disagree	Strongly disagree	No opinion
Ban the export of waste to developing countries	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ban the export of waste to developing countries, unless there is clear evidence that it will be processed in an environmentally sound manner	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Restrict the export of certain wastes to developing countries	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

The enforcement of the WSR lies within the competencies of the EU's Member States. At the moment this enforcement and its coordination between Member States could be improved. This results in the persistence of a level of illegal shipments of waste and/or illegal treatment of legally shipped waste occurring within the EU (often linked to activities of organised criminal networks), as well as to illegal shipments of waste from the EU to third countries, in particular to developing countries.

For each of the statements below, please state your level of agreement or disagreement.

A review of the Waste Shipment Regulation should seek to:

	Strongly Agree	Agree	Disagree	Strongly disagree	No opinion
Strengthen the enforcement of the Waste Shipment Regulation's provisions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improve the coordination at EU level of enforcement efforts by Member States against illegal shipment , e.g. by establishing a dedicated forum or body	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Additional information or suggestions on all of the aspects above, that you would like to share with the Commission regarding the review of the Waste Shipment Regulation.

Additional policy objectives

What policy objectives, in addition to those listed above, should the review of the Waste Shipment Regulation pursue?

*500 character(s) maximum*

Please see our reply to this questions in the accompanying document attached and in our attached position paper 'Towards a circular vision for the revision of the Waste Shipment Regulation' and our reply in the final window of the consultation".

Additional measures

What measures, in addition to those listed above, should the review of the Waste Shipment Regulation include?

*500 character(s) maximum*

Please see our reply to this question in the accompanying document attached and in our attached position paper 'Towards a circular vision for the revision of the Waste Shipment Regulation' and our reply in the final window of the consultation".

**Would you like to provide more detailed views and fill in the questions in part III, which are designed for those with a more in depth expert knowledge of the WSR?**

- Yes
- No: you can submit your replies to the questionnaire at this stage

**Follow-up interviews and additional information**

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Would you be interested and willing to take part in follow-up interviews which are being undertaken with select stakeholders to gather more information and views about the WSR?

- Yes
- No

Do you have any additional information or views on the WSR not provided above that you would like to share? Please provide this below or uploading a policy document.

*1000 character(s) maximum*

Please upload your file

The maximum file size is 1 MB  
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Thank you for your participation. You can also provide any additional evidence directly at ENV-WASTE-SHIPMENTS@ec.europa.eu.

**Contact**

ENV-WASTE-SHIPMENTS@ec.europa.eu

## Consultation response

# AmCham EU's contribution to the public consultation on review of the Waste Shipment Regulation

Thursday, 20 July 2020



This document includes:

1. AmCham EU's contribution to the public consultation on review of the Waste Shipment Regulation;
2. Responses to two questions from the section *Third policy objective: Strengthen the enforcement of the Waste Shipment Regulation's provisions*.

## AmCham EU's contribution to the public consultation on review of the Waste Shipment Regulation

AmCham EU represents a diverse group of companies manufacturing and putting on the market products, whether physical, digital or (often) a combination of both, from multiple sources in different countries. As we seek to further incorporate circular principles in our corporate and business strategies, develop innovative business models and new practices like reverse logistics and high-quality recycling, we encounter legal uncertainty, high costs of compliance and inconsistent application of rules related to the Waste Shipment Regulation (WSR). The business cases in annex to this paper concretely illustrate some of these difficulties. Sharing with policy makers the common objective of a well-functioning regulatory framework that fosters the uptake of the circular economy, we seek to illustrate our strong and practical experience, adding to the public debate and advancing towards this joint ambition.

### Recognizing raw materials as valuable resource

A viable circular economy is not based on targets and EPR schemes alone, it requires affordable secondary materials which flow freely throughout the EU Single Market. With a growing volume of waste streams being reoriented towards recycling facilities to be turned into valuable secondary raw materials and increased reverse logistic flows for repair services, remanufacturing and refurbishment, we see there will be a significant need to change the mind-set and approach of the WSR. Such efforts should support the Commission's efforts to adapt it to the scaling up of circular practices. We therefore encourage the Commission to fully recognise recoverable wastes as a resource, while establishing a control system to ensure that these materials flows freely between high-performing and quality-controlled actors.

### Unlocking a potential for simplification and harmonisation

Business would highly benefit from administrative simplification, starting with a simplified documentation system whenever possible, and enhanced digitalisation of the procedures to increase efficiency, harmonisation of information required by each competent authority, agility and transparency. Doing so would also allow Member States to improve implementation and enforcement at national level.

Today some of the difficulties experienced by companies originate not only in the different interpretations of the WSR by Member States but also in desynchronised application, as well as in divergent understandings of some provisions and requirements under other waste regulations (i.e. waste classification, end-of-waste criteria). We therefore strongly encourage the Commission to foster the development of a common understanding through EU guidance, as well as the adoption of EU harmonised end-of-waste criteria whenever relevant. That said, the WSR should not duplicate or interpret existing waste regulations but should work in complementarity.

We also note that repair, refurbishment and remanufacturing activities are considered as out of scope of the WSR but in reality, may be added by some Member States to its requirements. This situation leads to unnecessary complexities and legal uncertainty for actors that seeks to develop virtuous business models to extend the life of products. There should be a general understanding that products and materials for the purpose of these activities should not be considered as waste both at EU and national level.

### **Avoiding a general export ban**

AmCham's members take regulatory compliance very seriously and fully support authorities in their efforts to crack down on illegal waste shipments. To this end, we encourage the EU to consider reinforcing its cooperation with third countries through international bodies and agencies, so they can work together towards the achievement of environmentally sound management.

We also believe that recoverable waste is and will increasingly become a valuable commodity and, like any other, should not be subjected to a de facto export ban that would eventually run against the very objectives set by the policy makers to support product life extension and high-quality recycling and encourage a global shift to a circular economy in line with the goals of the 2020 Circular Economy Action Plan.

The expertise and know-how to repair and remanufacture complex products is indeed not available everywhere. This means that the products, or their faulty components, need to be shipped to centres of excellence where the required expertise is available within but also outside of the EU; otherwise the products would unnecessarily and prematurely become waste. Likewise, the development of high-quality recycling requires specialised centres operating at the uppermost standards in terms of operational efficiency and environmental protection, supplied by a continuous flow of high-quality waste streams. This is unlikely to happen at national scale, given the relative scarcity of certain high-value waste products, and the need for economies of scale given how today's complex value chains operate.

We believe that the WSR review offers a unique opportunity, through stakeholder dialogues, to correct some inefficiencies to accelerate the development of secondary raw material flows, which will be instrumental in the development of a fully-fledged European Circular Economy.

## Responses to consultation questions

Please note that these questions are part of the first section of the questionnaire (Questions to the general public on the policy objectives of the review of the Waste Shipment Regulation and on how to pursue them) and concern the third policy objective: *Strengthen the enforcement of the Waste Shipment Regulation's provisions*.

Additional policy objectives

### **What policy objectives, in addition to those listed above, should the review of the Waste Shipment Regulation pursue?**

*500 character(s) maximum*

A viable circular economy is not based on targets and EPR schemes alone, it requires affordable secondary materials which flow freely throughout the EU Single Market. With a growing volume of waste streams being reoriented towards recycling facilities to be turned into valuable secondary raw materials and increased reverse logistic flows for repair services, remanufacturing and refurbishment, we foresee the pressing need for a change of mindset and approach to the WSR and support the Commission's efforts to adapt it to the scaling up of circular practices. We therefore encourage the Commission to fully recognise recoverable wastes as a resource, while establishing a control system ensuring that these flows freely among high-performing and quality-controlled actors.

Additional measures

### **What measures, in addition to those listed above, should the review of the Waste Shipment Regulation include?**

*500 character(s) maximum*

Business would highly benefit from administrative simplification, starting with a simplified documentation whenever possible, enhanced digitalisation of the procedures for increased efficiency, harmonisation of information required by each competent authority, agility and transparency. Doing so would also allow Member States to improve implementation and enforcement at national level. A new procedure should be developed and introduced in the WSR aimed at allowing waste resources to move more freely in Europe, subject to strong quality conditions (see the attached position paper for further information)

Today some of the difficulties experienced by companies originate not only in the different interpretations of the WSR by Member States but also in desynchronised application, as well as in divergent understandings of some provisions and requirements under other waste regulations (i.e. waste classification, end-of-waste criteria). We therefore strongly encourage the Commission to foster the development of a common understanding through EU guidance, as well as the adoption of EU harmonised end-of-waste criteria whenever relevant. That said, the WSR should not duplicate or interpret existing waste regulations but should work in complementarity.

We also note that repair, refurbishment and remanufacturing activities are considered as out of scope of the WSR but in reality, may be submitted by some Member States to its requirements. This situation leads to unnecessary complexities and legal uncertainty for actors that seeks to develop virtuous business models extending the life of products. There should be a general understanding that products and materials for the purpose of these activities should not be considered as waste both at EU and national levels.