Conditions for shipments of waste destined for disposal

Background

The new European waste shipment regulation (EU 2024/1157) sets out strict requirements for waste shipments destined for disposal. According to the regulation art. 11, shipments of waste to disposal can only be allowed in certain cases. In such cases, it must be demonstrated that the waste cannot be recovered in a technically feasible and economically viable manner, and that the waste cannot be disposed of in a technically feasible and economically viable manner in the country where it was generated.[1] By 21 May 2027, the Commission shall adopt an implementing act establishing detailed criteria for the uniform application of the criteria regarding technical feasibility and economic viability.

This paper gives input to the upcoming guidelines on how the criteria regarding technical feasibility and economic viability should be demonstrated by notifiers and assessed by competent authorities.

General recommendations

In general, the European waste shipment regulation (EU 2024/1157) sets out strict requirements for waste shipments destined for disposal. However, the practice and interpretation of the regulation should take also into account the European efforts to strengthen the resilience of the European economy and build a strong single market. A too restrictive and narrow interpretation of the criteria to allow shipments of waste to disposal may create severe challenges for European industry.

The guidelines that are to be developed by the Commission should balance the industry's need for predictability and cost-efficient waste treatment solutions while still securing that Members States contribute to enabling the European Community as a whole to become self-sufficient in waste disposal. We also recommend that the European Commission develops a template, as part of the upcoming guidelines, which may be used by notifiers that wish to carry out shipments for disposal.

Input to the practice concerning waste shipments for disposal

The waste framework directive annex 1 sets out criteria for a number of different disposal and recovery operations. Even though the requirement in question does not distinguish between different disposal operations, we understand that the main purpose behind the requirements is to avoid shipments of waste to landfilling, etc. However, disposal operations may also entail incineration or physico-chemical treatment, where compounds and mixtures from the treatment process are both discarded and recovered. It may be environmentally beneficial to carry out shipments of waste from countries where landfilling is the only viable option, to countries where the waste may be incinerated or processed in physico-chemical treatment facilities.

We believe that such considerations should also be taken into account when the competent authorities shall determine whether the conditions to allow waste shipments for disposal operations are fulfilled. The possibility to carry out shipments for disposal, where parts of the waste are recovered, will also be in line with the waste hierarchy and support investments in sustainable treatment options for waste.

Input to the interpretation of "technical feasibility" and "economic viability"

We interpret the regulation so that shipments of waste to disposal can be allowed in cases where it is demonstrated that one of the criteria is fulfilled. This means that shipments of waste can be allowed

[1] Shipments of waste produced in a Member State in such a small quantity overall per year that the provision of new specialised disposal facilities within that Member State would not be economically viable, are also allowed.

where it is demonstrated **either** that the waste cannot be recovered/cannot be disposed of in the country where it was generated in a technically feasible manner **or** that the waste cannot be recovered/cannot be disposed of in the country where it was generated in an economically viable manner. The two criteria are also interlinked and dependent on each other. For instance, lack of capacity will affect the economic conditions for treatment of a certain waste fraction. Limited treatment capacity normally results in higher market prices, which may make treatment less economically viable.

The revised Industrial Emission Directive (IED, 2010/75/EU) act. 3 contains a definition of so-called "available techniques" meaning techniques developed on a scale which allows implementation in the relevant industrial sector, *under economically and technically viable conditions*, taking into consideration the costs and advantages, regardless of whether such techniques are used or produced in the Union, as long as they are reasonably accessible to the operator. The definition in the IED implies that costs, and whether a solution is reasonable accessible, are relevant to determine whether recovery or disposal options for certain waste streams are technically feasible and economically viable.

Input to considerations of market capacities

The market capacity for storage and/or treatment is an important criterion to determine whether or not it is technically feasible and/or economically viable to recover a waste or dispose of the waste in the country where it was generated. The upcoming guidelines should provide guidance for how market capacity/lack of capacity should be demonstrated by notifiers. For instance, for certain types of waste, volumes may differ significantly in high-activity periods and low-activity periods. Additionally, the composition of the waste may affect to what degree highly specialized treatment is necessary. In general, highly specialized waste treatment processes will have lower market capacities in a region.

One example can be the generation of offshore drilling waste, where the waste production typically follows the drilling periods. Hence, for certain waste streams, there may be periods during a year with lack of storage and treatment capacity. The available treatment capacity may also be affected by the composition of the waste in question. Finally, waste volumes for disposal may depend on unexpected variations in industrial production, etc. In cases where a transborder market is necessary to dispose of waste during high-activity periods, etc., we believe that transborder shipments of that specific waste fraction should be allowed. The determination of capacities in a certain waste market should consider both available final treatment capacities and capacity for reception and storage, meaning that the possibilities to distribute the treatment of the waste volumes throughout the year should be taken into account. This will also help to avoid establishment of overcapacities, which is not economically viable.

In theory, estimations of storage and treatment capacity for a certain waste stream in the EEA states can be based on permits given by the environmental authorities. However, in practice, other European legislation may also influence the treatment capacity for waste. One example could be the European Water Framework Directive, which requires Member States to achieve good status for all water bodies. Hence, estimations of treatment capacities for certain waste fractions may rely on a number of factors and legislative frameworks. Therefore, it is important that the common guidelines allow for a certain flexibility with regard to demonstrating market capacity/lack of capacity for waste to disposal.

Processing of notifications

According to the Waste Shipment Regulation art. 10, it is the notifier that shall demonstrate that waste cannot be recovered in a technically feasible and economically viable manner or that the waste cannot be disposed of in a technically feasible and economically viable manner in the country where it was generated. The Federation of Norwegian Industries and Offshore Norge understand the Waste Shipment Regulation so that each notification will be handled and assessed independently. However, in order to avoid multiple assessments for the same waste streams and assure a certain predictability for industry, we recommend that notifications for waste fractions can lean on preassessments made by competent authorities. Such preassessments should take into account the above-mentioned

concerns, e.g. available storage and treatment capacities, costs and whether a treatment solution is seen as reasonable accessible for the industry within the country where the waste is generated.

The principles of self-sufficiency and proximity

The Waste Shipment Regulation art. 10 requires the notifier to demonstrate that a planned shipment or disposal is in accordance with the waste hierarchy and the principles of proximity and self-sufficiency as laid down in the Waste Framework Directive (2008/98/EC), and that the related waste is managed in environmentally sound manner in accordance. According to the Waste Framework Directive art. 16, Member States shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of waste disposal installations. The network shall be designed to enable the Community as a whole to become self-sufficient in waste disposal, and to enable Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste. The network shall enable waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies. The upcoming guidelines should ensure a uniform practice regarding the application of the principles of self-sufficiency and proximity. In principle, the Federation of Norwegian Industries and Offshore Norge believes that shipments of waste for disposal that are allowed under the new Waste Shipments Regulation should be able to make use of the EEA-market as a whole, as long as the criteria for technical feasibility and economic viability are fulfilled. The goal should be to build a robust European network of waste disposal facilities, not focusing on regions within the European community. The possibility to make use of the EEA-market as a whole will also help avoiding unnecessary and extensive costs for industry.

Acute and emergency events

Emergency events may result in acute need to ship waste for disposal to facilities in other EEA-states. For instance, shutdowns of national capacity or accidents which produce unforeseen waste volumes. The guidelines should address the need to allow shipments of waste for disposal and make use of capacities in other EEA-states, should unforeseen emergency events occur in a country or region.

About the Federation of Norwegian Industries and Offshore Norge

The Federation of Norwegian Industries represents industry branches such as oil and gas contractors, onshore petroleum activities, aluminium, biotechnology, cement, chemical industries, electro and energy equipment, furniture, glass and ceramics, machine and hardware industry, maritime industry, aquaculture and aquaculture suppliers, metals, mining, paints and coatings, graphic arts and communication, paper and pulp, pharmaceuticals, plastics, recycling, facility services, textiles and clothing, etc. **We represent around 3,200 companies with approx. 145,000 employees**.

Offshore Norge represents more than 100 companies operating on the Norwegian continental shelf. Our members include oil and gas producers, drilling and well service providers, subsea contractors, offshore wind developers, carbon capture and storage (CCS) operators, seabed mineral companies, supply base operators, catering and logistics firms, and a wide range of technology and service suppliers. **Collectively, these companies employ approx. 35,000 people across Norway.** Offshore Norge works to promote safe, efficient, and sustainable offshore operations, and to ensure competitive framework conditions for continued value creation.