

# THE CONTRIBUTION OF THE WASTE SHIPMENT REGULATION TO EU AMBITIONS ON CIRCULARITY AND CLIMATE

## INTRODUCTION

The release of the Communications by the European Commission on the EU Green Deal and the New Circular Economy shed a new light on how the EU can achieve its goals towards resource efficiency and climate. The EU Green Deal mentioned that “EU should stop exporting its waste outside of the EU and will therefore revisit the rules on waste shipments and illegal exports”. The Communication also stressed that the access to resources is also a strategic security question for Europe’s ambition to deliver the Green Deal. More precisely, the EU Green Deal pointed out that ensuring the supply of sustainable raw materials necessary for clean technologies, by diversifying supply from both primary and secondary sources, is one of the pre-requisites to make the green transition (even more in the COVID-19 context) happening. Moreover, the New Circular Economy Action plan aims at these objectives in particular via the following two actions: (1) creating a well-functioning EU market for secondary raw materials; (2) addressing waste exports – which are losses of resources and economic opportunities for the recycling industry in the EU through the review of the Waste Shipment Regulation aiming at restricting exports of waste that can be treated domestically within the EU.

## KEY OBJECTIVES FOR WSR REVISION

The European Steel sector fully supports this approach and would like to stress here the instrumental role of the Waste Shipment Regulation towards climate and circular economy objectives. As a matter of principle, a revision of the Regulation should aim at these four objectives:

1. to keep valuable secondary raw materials such as ferrous scrap in the EU in order to process them into new products and materials; [EU Circularity]
2. to allow exports out of the EU only when the receiving country has environmental, climate, human health and circular economy standards equivalent to those applicable in the EU and it can clearly be demonstrated that these standards are effectively enforced by the destination country and respected by the non-EU waste processing facilities there; [Level playing field on Sustainability]
3. to simplify and make more agile the EU domestic shipment of secondary raw materials and waste when the scope is recycling; [EU functioning market of secondary raw materials]
4. to ensure an effective and harmonised enforcement of the Regulation with common practices among MSs. [Certainty and effectiveness]

## THE CASE OF FERROUS SCRAP: A STRATEGIC EU RESOURCE FOR CIRCULARITY AND CLIMATE OBJECTIVES

The use of large quantities of ferrous scrap in the crude steel production by both its production routes – integrated and electric route – is a well-known circular practice. In particular, the electric-based steel production route uses typically more than 90%+ of ferrous scrap input and the primary route can use up to 30%. In general the use of 1 t of steel scrap saves around 1.5 t of CO<sub>2</sub> emissions<sup>1</sup>. Thus, the ferrous scrap is a strategic secondary raw material for the EU economy and its availability and quality should be ensured, coherently with what reported by the EU Green Deal. However, notwithstanding the ferrous scrap generated by EU is always collected and recovered, **it is also the most exported waste outside the EU**. Increasing collection seems to be impossible in the EU. So the question is how to enable higher scrap usage in the EU.

The Commission's "European long-term strategic vision for a prosperous, modern, competitive and climate neutral economy", in analysing the specific situation of the steel sector, explicitly includes the export of scrap amongst the factors that affect the amount of steel that can be recycled in the EU and consequently the potential for further CO<sub>2</sub> reduction in the steel sector: "Europe has a large stock of steel, nevertheless there are many factors that significantly reduce the amounts of steel that can be recycled, most importantly low collection rates, losses in the processes, downgrading of steel and copper contamination. Moreover, increasing amounts of scrap have been exported from the EU with the subsequent loss of potential resources".

From 2005 to 2019, notwithstanding the finalisation in 2006 of the Waste Shipment Regulation and its subsequent entering into force, the exports increased at a pace of 5% each year. In particular, the net exports of ferrous scrap passed from almost 11,000,000 t in 2015 to almost 19,000,000 t in 2019 [See Exhibit 1 and Exhibit 2, Annex I]. In the same period, the ferrous scrap utilisation by EU steel production totalled 90,000,000 t annually over the period 2015-2019. According to the EUROFER estimates, the ferrous scrap annual generation varies in the EU between 102,000,000 t and 110,000,000 t. Thus, a secondary raw material such is the ferrous scrap, relevant for reaching EU goals presented by the Green Deal and by the New Circular Economy Action plan, has been shipped mostly to countries with standards lower than the EU.

Ferrous scrap has an important role for the reduction of CO<sub>2</sub> emissions and it is a sustainable raw material, generated by EU society and by the EU downstream industries using steel. The use of ferrous scrap in the steel sector is a widely recognised circular practice. In fact, circularity has been an overarching principle guiding EUROFER's "Low carbon roadmap: pathways to a CO<sub>2</sub>-neutral European steel industry"<sup>2</sup>. This roadmap highlights the importance of enhancing the recycling of ferrous scrap and of steel by-products in both production routes (electrical arc furnaces and integrated production)[see Exhibit 3, Annex I]. In particular, the use of ferrous scrap allows the steel sector to reduce both its greenhouse gases emissions and its consumption of virgin raw materials (to the extent allowed by the quality and availability of ferrous scrap).

Since many years, the key role of the ferrous scrap has been recognised by many countries in the world: whilst the amount of scrap leaving Europe is rapidly increasing, at the same time a large number of non-EU countries have progressively put in place export restrictions on scrap [see Exhibit 4, Annex I]. In spite of the approach of the Waste Shipment Regulation, implementing the approach of the Basel Convention endorsed by 187 countries all over the globe (save for United States and Haiti), relevant volumes of EU ferrous scrap are still shipped to countries with

<sup>1</sup> The reference data and methodology at the basis of this estimation can be found in the following documents: "Life Cycle Assessment methodology report", World Steel Association 2011; "LIFE CYCLE INVENTORY METHODOLOGY REPORT", World Steel Association 2017. The value in the text is a rough estimation of the benefits linked to the use of carbon steel scrap. In the case of stainless steel scrap the benefits are higher.

<sup>2</sup> <https://www.eurofer.eu/publications/reports-or-studies/low-carbon-roadmap-pathways-to-a-co2-neutral-european-steel-industry/>

technical and environmental standards, if any, totally not equivalent to the EU ones and usually with much lower climate and circular economy ambitions.

In general, the volumes of ferrous scrap exported out of the EU are characterised by a quality lower than the levels required by most of EU steel production. The option of exporting low or very low quality scrap plays against a further improvement of the scrap quality within the EU territory. Therefore, the revision of the WSR as requested in our previous bullet points is an essential step for internalising the need of a general higher quality. More availability of ferrous scrap in the EU domestic market together with the up-coming enforcement of the Waste Treatment BREF document could create a positive synergy for generating larger availability of higher quality scrap. Higher the quality of the ferrous scrap, higher the possible scrap utilisation by the steel sector.

### THE VALORISATION OF STEEL PRODUCTION RESIDUES

The EU steel industry also generates other material streams together with the steel. Ferrous slag, mill scale, chemicals compounds, dust and others are co-generated with the steel production process, i.e. they are functional to the steel production: thus they are fatally produced. In the past, a lot of efforts have been put in place to find appropriate outlets for their use as substitution materials in other economic sectors (i.e. industrial symbiosis) [see Exhibit 5, Annex I]. However, the waste legislation on the subject obliged each single company for each single stream to adopt specific solutions often tailor-made, reducing then the possibility of optimising and increasing the use of these materials and in some case obliging to landfill or destroying certain materials. The procedural and bureaucratic burdens and the different interpretations of MSs about the legal status of shipped materials are the cause of these obstacles. Bureaucracy and procedures linked to the waste shipment for recycling needs to be simplified. The classification of waste and the legal status of shipped materials need to be harmonised or at least aligned to the maximum extent possible. This is essential for creating a functioning EU internal market of secondary raw materials. Just as an example, the ferrous slag generated within the crude steel production processes totals about 40,000,000 t on an annual basis. Most part of it is marketed but an uneven implementation and understanding of the EU waste provisions limit the environmental benefits that can be gained from an optimal use of the material. Thus, although many of these aspects are linked in general to the implementation of the waste legislation in EU (e.g. Waste Framework Directive), they are also directly linked to how the WSR is actually implemented and how it links to WFD. The links between the two legislations – WFD and WSR – should also be better clarified in order to put them working positively together, avoiding possible misunderstanding and solving problems previously mentioned.

### THE “BROADLY EQUIVALENT” CONDITIONS

Standards on environment, human health, climate and circularity in third countries importing secondary raw materials (waste) such as ferrous scrap from the EU are often far from being “broadly equivalent” to those existing in the EU. Even when local standards might be considered somehow equivalent to EU standards, they are not always strictly applied or enforced by these third countries. Letting high value strategic secondary raw materials collected in the EU be exported under such conditions is not only environmentally unsound but also not sustainable and creates an unfair distortion at the cost of the EU industry.

The revision of the Waste Shipment Regulation should therefore result in a much stricter control of waste exports, whereby exports, irrespective of whether it is for recovery or disposal, should only be authorized when the broad equivalence with mandatory EU environmental, human health, climate and circularity standards can all be effectively verified and demonstrated. The revision must also provide for anti-circumvention measures, clear control and sanction

mechanisms, without which the mechanism under Article 49 of the WSR would turn ineffective and pointless.

## CONCLUSIONS

In summary, we consider the revision of the Waste Shipment Regulation can and should bring a major contribution to the development of the EU Circular Economy and to support the EU climate ambitions. In order to achieve these high-level goals, the revision of the Regulation should address the following 4 key points: (i) ensuring the availability of secondary raw materials in the EU internal market, such as the ferrous scrap; (ii) effectively prohibiting exports of waste to countries not applying environmental (including climate and circularity) and human health standards broadly equivalent with the existing and mandatory standards applicable in the EU; (iii) allowing an easier and simple waste/secondary raw materials circulation, such as e.g. ferrous scrap or slag, within the EU internal market; (iv) providing tools for effective enforcement of the Regulation and harmonising its implementation.

In the following part of the paper, Annex II, we will detail how the revision of the Waste Shipment Regulation can address these 4 key points. Moreover, the Annex II will give a rationale behind the different options chosen by EUROFER in the questionnaire of the public consultation.

ANNEX I – EXHIBITS

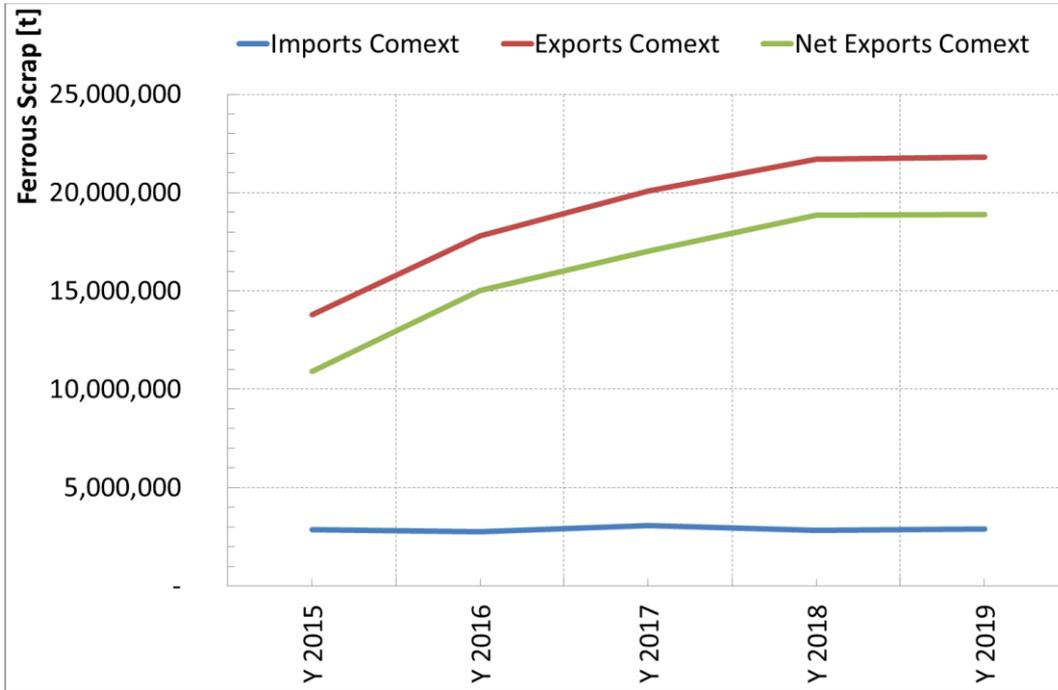


Exhibit 1. Ferrous scrap trade balance of the EU; source: EUROSTAT Comext database

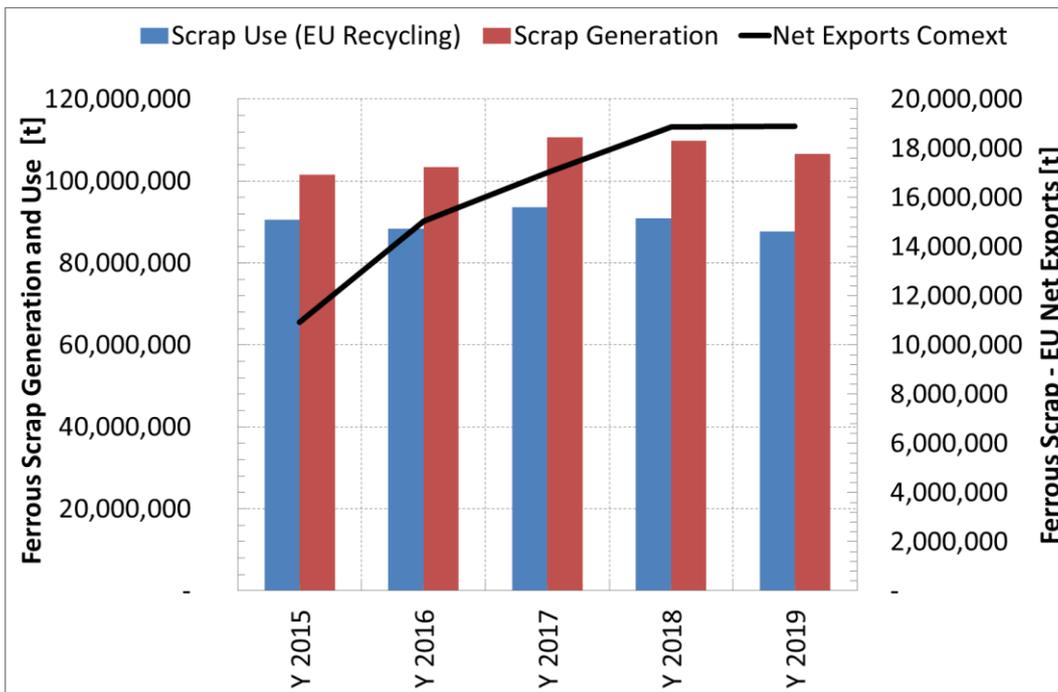


Exhibit 2. Ferrous Scrap Use (Ferrous scrap recycling into new steel in EU) and estimation of the ferrous scrap generation of the EU; source: EUROSTAT, Comext database; EUROFER data; EUROFER analysis

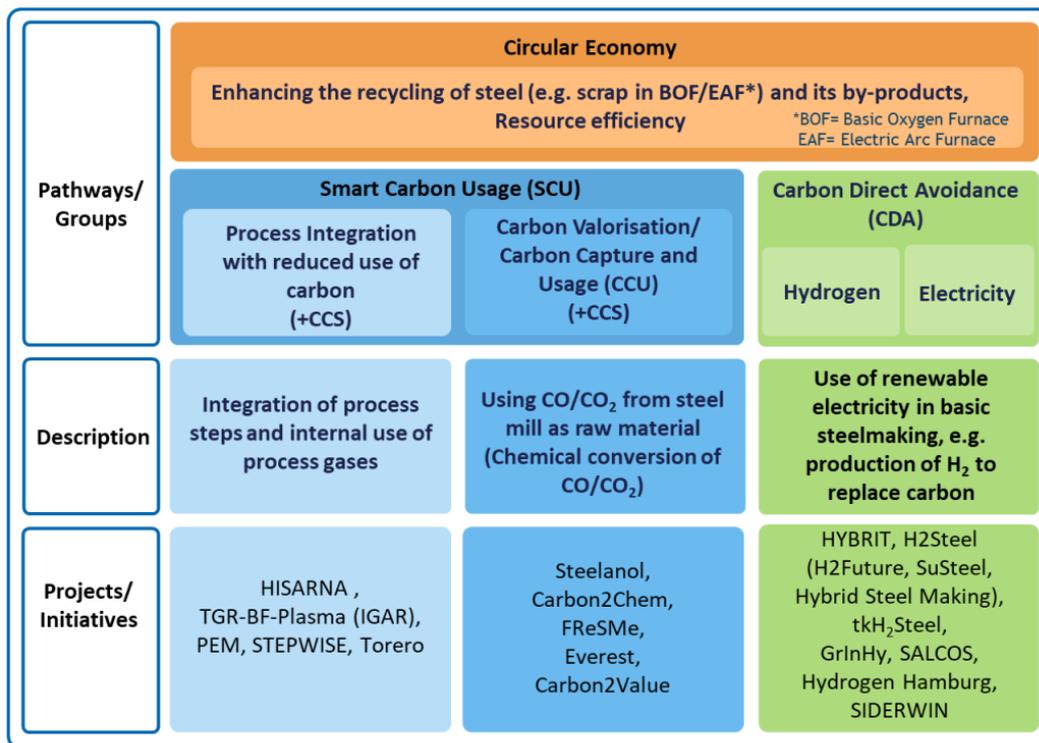
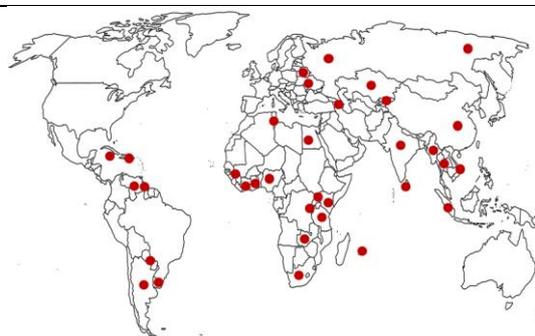
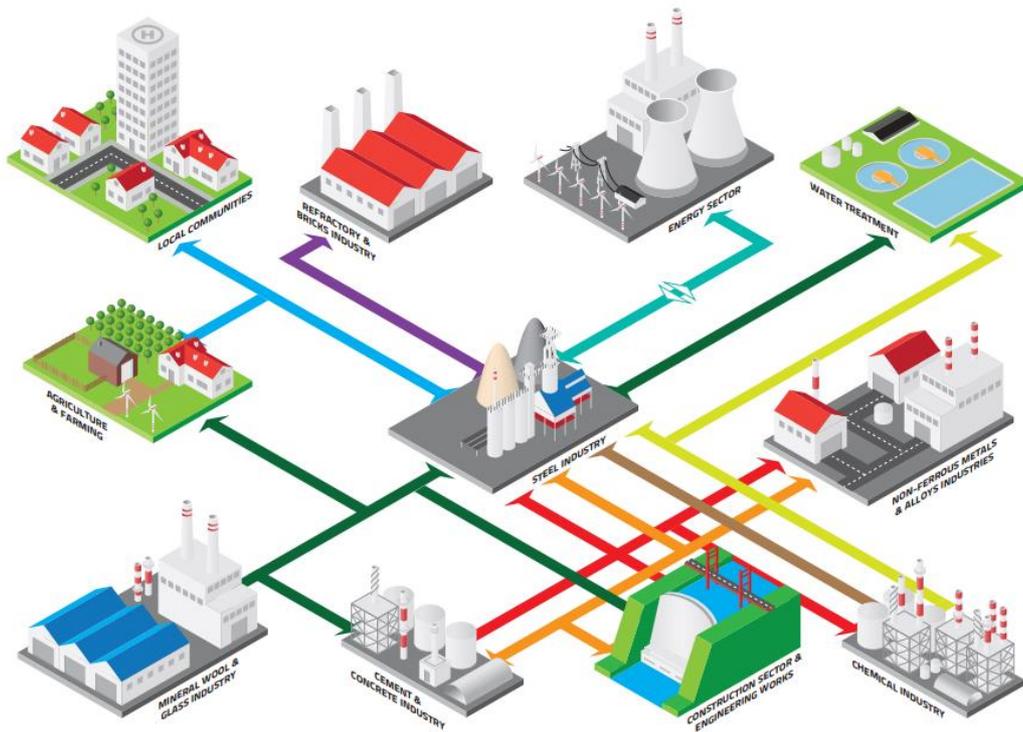


Exhibit 3. The EU steel industry’s strategic technological pathways. This identifies both the main pathways to be pursued and a sample of some of the proposed or ongoing projects in each pathway.



- Ukraine** - export duties on metal scrap increased for a period of 3 years from € 10/t to € 30/t on national security grounds – (Law of the government)
- India** – Export Duty 15-20% of the value - (Conservation of exhaustible natural resources)
- China** – Export Duty 40% of the value – (legal background not given)
- Russia** – Export Duty 15% of the value but not less than 15 EUR/tonne; Restriction on customs clearance point for exports (Legal background in several documents)
- South Africa** – Licensing requirements (International Trade Administration Act, 2002)
- Venezuela** – Export ban – (National Decree)
- Vietnam** – Export tax 15-27% - (Law on export and import duties)
- Uruguay** – Export ban – (National law)
- Malaysia** – Export tax 10% and licensing requirements – (National Custom Acts)
- Kazakhstan** – Export tax 15% but not less than 20€/t – (Resolution of the government)
- Indonesia** – Licenses requirements – (Trade ordinance)
- Egypt** – Export tax at 25€/t – (Decision of the government)
- Belarus** – Export quotas – (Decision of the Interstate Council of the Eurasian Economic Community)
- Argentina** – Export ban – (National Decree)

Exhibit 4. Export measures imposed by some third countries of ferrous scrap; source: OECD (access 2017); EUROFER elaboration.



- Chemical compound
- Dust
- Heat
- Ferrous slag
- Used bricks & refractories
- Mill scale & iron oxyde
- Process gases
- Sludge

Exhibit 5. Exchanges of co-generated streams between the steel industry and other industrial sectors; source: EUROFER internal survey; EUROFER elaboration.

## ANNEX II - RATIONALE OF THE EUROFER INPUT INTO THE QUESTIONNAIRE OF THE PUBLIC CONSULTATION

The Waste Shipment Regulation concretely contributed to protecting the environment by controlling waste streams within the EU territory. The Regulation has been also designed to promote a proper environmental management of the waste exported from the EU. However, its effectiveness has been unfortunately limited the absence of a harmonized and coordinated approach among MS on how to monitor EU exports, and by different and uneven implementations of the waste legislation.

This paper wants to give additional information and details about the rationale behind the responses introduced into the questionnaire of the public consultation. The paper is divided in three sections, like the questionnaire.

### FIRST POLICY OBJECTIVE: THE WSR SHOULD SUPPORT THE TRANSITION TO A CIRCULAR ECONOMY IN THE EU MORE EFFECTIVELY

#### Support to the Circular Economy and alignment with the Waste Hierarchy

1. The Waste Shipment Regulation can substantially contribute to the development of the Circular Economy through a concrete simplification of the waste shipment procedures in case of material recycling within EU. The steel sector always supported the possibility of creating a simplified and fast tracked procedure with reduced bureaucratic burden when the final treatment of the material is recycling, whatever is its classification (hazardous or not hazardous). Also the use of the fast track procedure proposed in Article 14 might be of support. However, this procedure may not be flexible and rapid enough, due to the 30 days (max) that the country of dispatch might require for approving the shipment, thus putting a hurdle to a more robust uptake of the use of secondary materials.
2. In addition, an alignment of the Regulation with the waste hierarchy would be a positive development. However, this should be done in accordance with the principles of the hierarchy: *“to encourage the options that deliver the best overall environmental outcome”* and recognizing that specific waste streams may exit the economic cycle *“where this is justified by life cycle thinking of the overall impacts of the generation and management of such waste”*. Thus, incineration and landfilling should continue to be allowed, under certain circumstances and well justified cases. For instance, there are materials that can be recycled, others that preserve their inherent properties and some that start downgrading their properties after few or even one recycling step. Therefore, at certain moment in time there will always be the necessity of destroying materials, especially those that do not preserve their inherent properties, and recovering their energy for instance could be the only option left. Thus, even if it is absolutely necessary to facilitate the shipment of waste for recycling purposes, further limiting or banning intra-EU shipments for energy recovery or landfilling would not be appropriate.
3. It is also relevant to settle how to deal with contaminated waste. Member States need support and more clarity for instance about the procedures mentioned in the Annexes III, IIIA and IIIB of the WSR. The annexes want to address the problem of the cross-contamination among waste types. However, the procedure for classification proposed in the three annexes has been found complex by practitioners. Our general recommendation is to follow more simple approaches. A simplified approach could also help Member States to implement the legislation with a more coherent approach. The definition of ‘contamination thresholds’ or levels’ at EU level can be of limited support due to the heterogeneous situation in different MSs concerning waste classification and

implementation of the Waste Framework Directive. Thus, EU contamination levels might have limited effects with a required effort that might be disproportionate.

4. Moreover, the questionnaire lacks taking into account innovation and research. It is vital, in order to fully foster a circular economy, to find new outlets for waste recycling and therefore to research and develop innovative methods to valorise waste. This will typically require testing and trials, often at industrial scale. However, the actual provisions of the Regulation will not support innovation in this sense. The limit of 25 kg imposed on waste shipment for testing is too low especially when referring to industrial scale testing. At industrial scale the quantity of a material batch for one test is of the order of 1 t and usually many tests have to be performed before setting up input composition and processing parameters. Usually, for industrial testing, one truck load of material, i.e. around 20t, will have to be shipped. Thus, it would be coherent and effective to increase the limit from 25 kg to 20 - 25 t (at least) when dealing with industrial scale tests. Moreover, it should be foreseen that bureaucratic procedures and requirements should be relaxed for such situations that are business to business related.
5. Another important point for supporting the Circular Economy within the frame of the waste shipment is how to deal with the presence of certain substances in a waste or compound. For certain materials the presence of substances of concerns or materials with hazardous properties is an essential pre-condition for making the waste recycling viable. The presence of such substances adds up value to waste within the EU territory. It should be absolutely avoided restrictions on waste circulation based solely on hazardous substances content. For instance, there are residues from the stainless steel production that have high content of Nickel which is classified as substance of concern by ECHA (skin sensitising). However, the presence of such metal gives a very high economic value to the material and makes economically viable its shipment across many Member States in EU for recycling.

### Simplification and reduction of administrative burden linked to the implementation of the WSR

6. The steel sector strongly supports the use of IT tools and the establishment of an Electronic Data Interchange system to store and exchange all information related to waste shipment. The use of electronic tools should support the exchange of information among public authorities and a fast approval of the shipment procedures. Moreover, this system could help member states in closing their data gaps concerning the recycling value chain of waste. The new methodology for calculating the recycling targets of the Waste Framework Directive uses as calculation point the point where the materials recovered from waste enter the final recycling process. As waste management and treatment facilities can be located in different MSs, the ability to follow the movements of the waste streams is crucial for applying the method. IT tools and an Electronic Data Interchange System might help in this respect.
7. The guarantee provisions requested under certain conditions by competent authority should be modified in order to not limit operational activity and cash flows of the companies that ship waste. The required financial guarantees can freeze substantial resources (e.g. cash collateral); moreover there is no standard approach between the MS. Thus, the system should be simplified, made less burdensome and harmonized through more guidance to the Member States.
8. The Regulation's efficiency can be improved by simplifying its procedures and facilitating the implementation of its provisions. In particular, it could be very helpful to consider the establishment of a list or a register of 'transport companies' accredited for certain types of materials, in function of the waste classification (hazardous / non-hazardous) or legal status of the material.

### Harmonisation of interpretation, application and enforcement across Member States

9. The inconsistencies of waste identification, classification and terminology between OECD guidance, Basel convention, EU waste catalogue and CN codes should be removed. In addition, a link between these EU or international documents and the different national situations, in which national catalogues are used, will help.
10. A well-functioning internal EU market for secondary raw materials needs harmonisation, as far as possible and useful. However, as a matter of fact, the implementation of the EU waste legislation by the MSs has been uneven and the differences have been stratified by many not coordinated and sometimes contradicting interpretations of the legal aspects linked to waste classification, shipments and practices. Thus, harmonisation among the Member States needs to limit the room for different interpretations of the Regulation and contradictions on legal aspects. On this point it is important to stress the following elements, some of which have not been fully addressed by the Commission's questionnaire and would deserve a proper consideration for a better functioning of the WSR and of the secondary raw materials market:
  - a. The revision of the WSR has to take into account inconsistencies and implementing issues in Member States linked to waste, End-Of-Waste and By-products. The internal EU shipment of secondary raw materials should be facilitated independently of the legal status of the material, once it is known that the final treatment is material recycling and valorisation of the material.
  - b. It will be useful to clarify what an 'illegal shipment' is beyond the high-level list of the WSR definition (Article 2, point 35). In too many cases, a waste shipment has been classified illegal only because waste law was differently implemented by the two Member States involved in the shipment. This has to be linked with the need of identifying which Member State (dispatch or destination) is responsible for deciding whether a commodity is classified as waste or not. Many times a shipment has been classified illegal just because of different views between dispatch and destination Member States.
  - c. Additional guidance about the classification of waste shipments has to be given to Member States about whether a waste is classified as not hazardous or hazardous. This aspect is linked to the previous point (b) in relation to the possible classification of a shipment as illegal.
  - d. It is also key to solve the legal uncertainties such as "subject of jurisdiction of a state", e.g. who is the responsible of the shipment in the case of the state of transit.
  - e. More legal certainty is necessary about the 'additional provisions regarding interim recovery and disposal operations' covered by the Article 15 of the Regulation. In particular, a practical legal delimitation of the terms "provisional", "subsequent" or "final" is missing at present, while it would help national authorities and actors involved in the operations.
  - f. Finally, it is also important to establish an appropriate forum or platform in which the Member States will be able to exchange practices and information, thereby fostering major harmonisation and creating a level playing field for the secondary raw materials market.

### SECOND POLICY OBJECTIVE: RESTRICT THE EXPORT OF EU WASTE TO THIRD COUNTRIES

#### Restrict the export of EU waste outside the EU

11. The export of waste should occur if and only if it can be demonstrated that it contributes positively to sustainability (and in particular climate and circularity) objectives. This principle should be applied on all exports to non-EU countries<sup>3</sup>.
12. It is absolutely relevant to consider the concept of sustainability within the scope of the Waste Shipment Regulation. In most cases, recycling in the EU waste and secondary raw materials will be beneficial in terms of avoiding GHG emissions, mitigating climate impacts and increasing resource efficiency, as evident in the case of ferrous scrap recycled by EU steel industry.
13. For instance, Nickel is an essential component of certain types of steel (austenitic stainless steel, in particular, typically contains 8% Nickel or more) and the EU domestic production of (primary) Nickel is far from covering the EU-internal demand. Therefore, should the EU steel producers not be able to source Nickel-rich ferrous scrap in sufficient quantity and quality, they would have to replace the missing scrap volumes by importing ferronickel alloys produced with a very high carbon footprint<sup>4</sup>.
14. Therefore, the Waste Shipment Regulation should be strengthened in order to ensure that an export can happen only when the receiving waste processing facility operates in a country that effectively (and not just theoretically) follows standards, measures or legislation protecting human health and the environment, mitigating climate change and contributing to resource efficiency (circular economy). These standards, measures and legislation in the non-EU country should be 'broadly equivalent' to the EU ones. Moreover, such standards have to be concretely implemented and followed by the considered receiving waste processing facility and enforced by the local competent authorities.
15. Thus, the revision of the Regulation should explicitly introduce climate change mitigation, human health protection and circular economy goals and standards in the objectives of the WSR and in the check, in order to take into account, in the end, all the components of the environment and social pillar of the sustainability. Clearly, allowing exports of waste to third countries where, due to the different conditions applying in those countries, the processing / recycling of waste will result in higher GHG emissions, more adverse climate impact and/or other detrimental health or environmental impacts, would run against the sustainability objectives of the Commission. This would also expose the EU waste processing and steel industries, which have heavily invested to comply fully with the strict requirements of EU environmental, climate, human health and waste legislation, to an unfair competitive disadvantage. The revision of the Regulation should therefore tackle this situation based on this reinforced approach, since less strict requirements would not be sufficient to pursue the EU and international objectives of protecting human health and the environment from adverse effects.
16. This proposal is also in line with the new Circular Economy action plan that focuses on losses of valuable resource for the EU industry and on those waste streams that can be domestically treated. Moreover, taking into account climate objectives and measures within the assessment of waste exports conditions is fully in line with the general goals of the EU Green Deal and the objectives of the Circular Economy as an ancillary climate mitigation tool.

<sup>3</sup> Since the WSR foresees a duty to take back waste shipments that are found to be illegal, it is all the more important to ensure a tight and controlled system with regard to exports.

<sup>4</sup> Whereas ferrous scrap has a negligible carbon footprint, ferronickel alloys typically have a footprint of over 8 tons of CO<sub>2</sub> per ton of material.

### Verify environmentally sound management of waste exported outside the EU

17. Article 49 of the WSR should be complemented by checks to ensure that export can happen only when as explained before. Climate change and circular economy<sup>5</sup> should be added in the objectives of the Regulation and in the test of “broad equivalence” to ensure a real level playing field between the EU and the non-EU importers of EU waste.
18. The concept of “broadly equivalent standards” should be defined by referring specifically to all relevant environmental (emissions-, climate-, circular economy- related), industrial and health criteria (e.g. safety and labour conditions) which are mandatory in the EU; this should be more than mere guidance, applicable standards should be listed in the WSR itself.
19. For such a purpose Annex VIII, which currently only refers to international guidelines, should rather refer to the EU established and mandatory standards.
20. For exports from the Union, the burden of proof should rest not only on the competent authorities (of dispatch), but first and foremost on the exporters, which should have an obligation to demonstrate that the destination waste destination facilities effectively adhere to the specified EU standards (or to local standards recognized by the Commission to be “broadly equivalent” to applicable EU standards):
  - a. The obligation of exporters to ensure that broadly equivalent standards will be applied should not be limited to merely confirming that the considered destination country has established such standards.
  - b. Rather, exporters should have a duty to establish positively that the non-EU processing facilities to which they are exporting (directly or ultimately) are effectively complying with these broadly equivalent standards.
  - c. In order to satisfy this obligation, exporters shall obtain all required evidence, potentially by requesting and obtaining from non-EU processing facilities audit reports established by independent professional auditors of international standing confirming compliance with applicable standards.
  - d. Moreover, in order to avoid any risk of circumvention, the exporters’ responsibility should not be limited to the importer of waste shipped from the EU but should cover all operations, from the shipment up to the recovery or disposal of the considered waste, regardless of whether such operations take place in one or several facilities and /or in one or several destination countries.
21. Such a more articulated structure of Article 49 will require the involvement of specific bodies of the EU-institutions, in order to ensure the proper application and control of the EU rules whether they are unilateral rules or rules included in bilateral/regional agreements. Moreover, it will be also important to ensure the enforceability by defining clearly the consequences in terms of prohibitions, penalties and liability. Thus, a specific EU agency might help in this respect.
22. It is also relevant to introduce additional guidance on the WSR and on the application of more detailed and stricter conditions governing the export of waste outside the EU<sup>6</sup>.

### THIRD POLICY OBJECTIVE: STRENGTHEN THE ENFORCEMENT OF THE WASTE SHIPMENT REGULATION’S PROVISIONS

23. A major involvement of EU agencies (including OLAF) and the mobilisation of additional capacity on the control of EU waste exports seem necessary. The Member States need support from EU for building up appropriate capacities and procedures to check waste shipments.

<sup>5</sup> Cf. the definition of ‘circular economy’ provided for under Regulation (EU) 2020/852.

<sup>6</sup> For additional details on this, please consult the document “EUROFER Input to the EUNOMIA questions presented on 17 October 2018: How to apply Art. 49 of Regulation 1013/2006 in order to respond to Art. 11a.8 of the Directive 2018/851 (New WFD 2008/98)”, attached

24. A forum for exchanging information about practices, procedures and experiences of the MSs is important because this will foster a progressive harmonisation of the controls, a bottom-up approach. This will also foster a major cooperation among the EU MSs that will lead, at regime, to a better exploitation of resources.
25. More criteria and principles linked to Article 49 will make necessary to improve existing guidance and to develop additional guidance on implementation and enforcement issues for the Member States and the involved EU agencies and DGs.
26. The revision of the WSR should embed clear and harmonized sanction mechanisms, specifying in particular administrative fines which would be imposed at or above a minimum level defined by the Regulation (either specific threshold or percentage), for exporters not complying with the provisions of the Regulation or other entities contributing to a breach of the export requirements of the WSR. Effective enforcement of such sanction mechanisms need to be monitored by the Commission through regular exchanges with Member States and with the support of the Commission's investigation capabilities (e.g. OLAF).