



Reaction “Draft Delegated Act recent changes Basel Convention”

EERA wishes to react to the reworked “Draft Delegated Act on the recent changes in the Basel convention”.

This informal consultation is open until July 24th, which is a challengingly short period of time, particularly in view of the holiday season and the complexity of the text.

This Delegated Act contains a massive amount of cross references to other documents.

Having to go through some 1350 pages of text to understand the content of the referenced documents in this Delegated Act cannot be in line with the Fit for Future and REFIT objectives of the EU. In the annex of this reaction EERA evaluates many and not even all the listed and cross-referenced documents.

EERA is pleased with the summary of the newly worded delegated act and especially with the declared objectives:

- Prohibiting the export of hazardous and hard-to-recycle plastic waste from the EU to non-OECD countries.
- Setting out control procedures for the export of such waste to OECD countries.
- Clarifying that intra-EU shipments of non-hazardous waste are exempt from new controls.

EERA suggests, as we did in the first informal reaction, to refrain from implementing the A3210 code for deliveries of WEEE- or other complex mixes of plastics from technical products within the EU or for imports into the EU, if it is proven that environmentally safe processing of these plastics mixes is guaranteed. Classifying such wastes as hazardous would indeed unnecessarily increase the costs of notifications, transport, and incineration of the non-recyclable content without any benefits to the environment. On the contrary this would promote the illegal export of these complex wastes.

The practical problem with the wording of the A3210 waste code is that it does not take the environmentally safe treatment of these wastes into account. The wording “*Plastic waste, including mixtures of such wastes, containing or contaminated with Annex I constituents, to an extent that it exhibits an Annex III characteristic*” leaves a lot of freedom of interpretation to the many competent authorities within the EU. Therefore, Intra-European shipments of these valuable wastes to appropriate treatment and/or recycling facilities that have the technology to properly separate plastics that contain substances of concern and properly discard these, are hindered if not stopped by classification as hazardous waste for various reasons, as we currently observe in France (HP14), the UK (threshold values) and in some German federal states (Low POP Content).

In a recent court case, the EU Court of Justice judged that the most important criterium pertaining the presence of impurities (or contaminations) in a mixture of waste is whether that mixture can be recovered in an environmentally sound manner and not defined thresholds as such (C-654/18 of May 28th 2020).



E-Waste plastics have in most cases been used in electronic appliances in households or offices for periods up to decades. The embedded legacy substances do not disappear or release from the plastic structure and therefore do not pose an immediate risk for either health or environment. Therefore, there is no pressing reason to classify these mixtures of plastic wastes as hazardous wastes at end-of-life. This waste material just needs to be treated properly.

Post-Consumer Recycled plastics generated at these facilities must comply with product legislation (such as REACH and RoHS) and the separated plastics containing the restricted substances need to be properly discarded in appropriate thermal treatment processes.

The notification process, that is linked to the new EU code EU48, allows for a thorough check of the environmentally sound management in the receiving treatment facilities.

EERA therefore requests that the delegated act will allow all plastic mixes from the recycling of technical products such as WEEE, to be allowed to travel to environmentally sound treatment facilities within the EU under the waste code EU48 as amber waste with a procedure of prior consent (notification) and to refrain from the application of the A3210 code in such cases.

Arnhem, 16 July 2020.

A handwritten signature in blue ink, appearing to read 'Chris Slijkhuis', with a horizontal line underneath.

Chris Slijkhuis
Expert and Board Member EERA

About EERA:

The European Electronics Recyclers Association (EERA) is a non-profit organization that promotes the interest of recycling companies who are treating waste electrical and electronic equipment (WEEE) in Europe. EERA members include the largest electronics recyclers in Europe who, together process some 2.5 million tons of WEEE.

More information about EERA can be found on the website: www.eera-recyclers.com.



Annex.

EERA went through the effort of going through most documents that are referred- or cross-referenced to in this delegated act and this took an enormous amount of effort and time. EERA wishes to inform the Commission of the size of the task:

- The proposed Delegated Act 5 pages
- The Annexes to the Delegated Act 10 pages
- The Basel Convention 75 pages
- The Waste Shipment Regulation 98 pages
- The Decisions of the OECD regarding the implementation on the Norwegian proposals (obviously not published yet - see [OECD document](#)) 44 pages

The above list of documents therefore consisted of 232 pages of text.

With regards to the technical guidance documents listed in the Annex II of the Delegated Act, EERA took the effort to review most of the listed documents and concluded that a large number of these guidance documents do not have a direct relevance to the transboundary shipment and/or the environmentally sound management of plastics wastes and/or E-Waste.

Total volume of guidance documents that EERA went through consisted of 1 115 pages texts.

1. *Technical Guidelines on the Environmentally Sound Management of Biomedical and Health Care Wastes (Y1; Y3)* **Remark EERA: not relevant for E-Waste plastics.** 79 pages
2. *Technical Guidelines on the Environmentally Sound Management of Waste Lead Acid Batteries* **Remark EERA: no additional value compared point 4.** 58 pages
3. *Technical Guidelines on the Environmentally Sound Management of the Full and Partial Dismantling of Ships* **Remark EERA: not relevant for E-Waste plastics** 112 pages
4. *Technical guidelines on the identification and environmentally sound management of plastic wastes and for their disposal (Plastics)* **Remark EERA: relevant** 77 pages
5. *Technical Guidelines on the Environmentally Sound Recycling/Reclamation of Metals and Metal Compounds (R4)* **Remark EERA: not relevant for plastics** 42 pages
6. *General Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic Pollutants* **Remark EERA: current valid version does not include Deca-BDE** 67 pages
7. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with 1,1,1 trichloro 2,2 bis (4 chlorophenyl) ethane (DDT)* **Remark EERA: not relevant for plastic recycling** 18 pages

8. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexabromocyclododecane (HBCD)* **Remark EERA: relevant for the recycling of EPS and XPS material - not relevant for E-Waste** 28 pages
9. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF) - Remark EERA: document does not seem to be available in a final version and not relevant plastic recycling* 15 pages
10. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters (PCP)* **Remark EERA: this has nothing to do with plastic recycling** 30 pages
11. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, endrin, heptachlor, dieldrin, hexachlorobenzene, hexachlorobutadiene, lindane, pentachlorobenzene, mirex, pentachlorophenol and its salts, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical (POP Pesticides).* **Remark EERA: pesticides are traditionally not linked to plastics recycling. However, Mirex has been used as flame retardant in plastics and in electronics the over 50 years ago and hence it cannot be found back in E-Waste plastics at any relevant concentrations, therefore this guidance is not relevant for the topic of cross-border transport of plastics.** 30 pages
12. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls including hexabromobiphenyl (PCBs, PCTs, PCNs or PBBs, including HBB).* **Remark EERA: This technical guidance is relevant to plastics in that PBBs have been used as brominated flame retardants until the early 80-ies. Today this substance cannot be found anymore in E-Waste plastics and hence this guidance document is not relevant for the topic of cross-border transport of plastics.** 18 pages.
13. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexabromodiphenyl ether and heptabromodiphenyl ether, or tetrabromodiphenyl ether and pentabromodiphenyl ether or decabromodiphenyl ether (POP-PBDEs).* **Remark EERA: In reality this document is still work in progress and the document is still only available in draft form and EERA has been and still is involved in the development of this guidance document. A similar document is work-in-progress in the Stockholm convention and it is important to note that the conclusion is that environmentally sound treatment and the separation of PBDE containing plastics must take place before the end of the recycling process.** 32 pages.
14. *Technical Guidelines for the Environmentally Sound Management of Wastes Containing or Contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls,*

pentachlorobenzene, polychlorinated naphthalenes or hexachlorobutadiene. **Remark EERA:** not relevant for the cross-border traffic of E-Waste plastics. 16 pages.

15. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene.* **Remark EERA:** this guidance document has nothing to do with the HBCDD Hexabromocyclododecane and nothing with E-Waste plastics recycling or cross border traffic of plastics 21 pages

16. *Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with short-chain chlorinated paraffins.* **Remark EERA:** SCCPs are not an issue for solid plastic wastes from WEEE, but they have been used in PVC material as plasticizer. 29 pages

17. *Technical Guidelines for the Environmentally Sound Management of Used and Waste Pneumatic Tyres.* **Remark EERA:** This is not an issue for the recycling or the cross-border transport of (E-Waste) plastics. 60 pages

18. *Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of Elemental Mercury and Wastes Containing or Contaminated with Mercury.* **Remark EERA:** This is not an issue for the recycling or cross-border transport of WEEE plastics. 64 pages

19. *Technical Guidelines for the Environmentally Sound Co-processing of Hazardous Wastes in Cement Kilns.* **Remark EERA:** Of very little to no added value for the compliant recycling of (E-Waste) plastics - document 4 covers this already. 59 pages

20. *Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention (E-waste)*
Remark EERA: this document is not relevant for plastics as the document itself describes that: "Transboundary movements of materials that have been removed or that derive from the dismantling or recycling of e-waste and are waste, such as metals, plastics, PVC-coated cables or activated glass, are not addressed in the present guidelines, regardless of whether or not they fall under the provisions of the Convention" 29 pages

22. *Guidance document on the environmentally sound management of used and end-of-life computing equipment* **Remark EERA:** we only found a document called "Manual on Steps to Establish and Implement Environmentally Sound Management for Used and Waste Computing Equipment" and this manual does not give added information compared to other guidance documents listed under 4 and 6. 39 pages

23. *Guideline on environmentally sound testing, refurbishment and repair of used computing equipment.* **Remark EERA:** this outdated revised guidance document about refurbishment has nothing to do with plastics recycling . 44 pages

24. *Guideline on environmentally sound material recovery and recycling of end-of-life computing equipment* **Remark EERA:** the guidance contains a good chapter on plastics



recovery and recycling, but this is not up-to-date as there is no reference to all restricted BFRs. This guidance does not give added information compared to other guidance documents listed under 4 and 6. 65 pages

25. *Guidance document on environmentally sound management of used and end-of-life mobile phones* Remark EERA: this manual does not give added information compared to other guidance documents listed under 4 and 6. 59 pages

26. *Framework for the environmentally sound management of hazardous wastes and other wastes.* Remark EERA: this document does not refer to plastics. 24 pages

27. *Practical manuals for the promotion of the environmentally sound management of wastes and fact sheets on specific waste streams as incorporated in the Environmentally Sound Management toolkit* Remark EERA: This is a [long list of documents](#) with self-assessments, training materials, pilot projects and many other, that EERA did not study any further, as EERA failed to see the relevance to this delegated act.

And additionally

II. Guidelines adopted by the OECD:

Technical guidance for the environmentally sound management of specific waste streams:
Used and scrap personal computers

III. Guidelines adopted by the International Maritime Organization (IMO):
Guidelines on ship recycling

IV. Guidelines adopted by the International Labour Organization (ILO):
Safety and health in shipbreaking guidelines for Asian countries and Turkey

Remark EERA: This list of documents was not consulted by EERA as (1) these do not refer to the EU and (b) EERA failed to see the relevance to this delegated act.

In conclusion, EERA went through a total package of some 1360 pages of text to understand that full extend of this Delegated Act.

This cannot be in line with the Fit for Future objectives of the EU.