

International Waste Shipments

Basel Convention Amendments for Plastics - guidance

2 November 2020

Background

On 1 January 2021, new entries to Annexes II, XIII and IX of the Basel Convention will become effective. These amendments will strengthen the controls for the export of waste plastics. The changes mean that only plastics which are destined for recycling operations, and which consist of almost exclusively of one type of plastic and are almost free from contamination can continue to be exported as 'Green List' waste. Mixtures of polypropylene (PP), polyethylene (PE) and polyethylene terephthalate (PET) can also continue to be exported under Green List controls on the proviso they are destined for separate recycling. All other plastic exports must be notified and receive consent for export prior to the movements. These changes only apply to Basel member countries, although a small number are not implementing the amendments and non Basel Parties exporting to a Basel Party must apply the rules in the absence of a bilateral agreement.

The Basel Convention has been ratified by the UK Government and along with the OECD Decision has been implemented across through the Waste Shipments Regulation (the WSR) (Regulation (EC) No 1013/2006).

In order to take effect in Great Britain, new legislation will be required. This is due to be in force for the 1 January 2021 so operators should take action to ensure they will be compliant when the requirements enter force.

Basel Convention Changes

The Basel Convention has been amended to introduce 3 new codes from 1 January 2021:

1. The existing code for non-hazardous waste plastics B3010 has been replaced by B3011. This change means that non-hazardous waste plastics can only be exported from 1 January 2021 as green list waste (B3011) if the wastes are destined for recycling in an environmentally sound manner and are almost free from contamination and other types of waste. The specific categories of waste plastic in B3011 are:
 - Non-halogenated polymers
 - Cured resins/Condensation products
 - Fluorinated polymers
 - Mixtures of separated polyethylene, polypropylene and polyethylene terephthalate that will be separately recycled and are almost free of contamination and other wastes,

These plastics must be recycled by R3 – recycling/reclamation of organic substances that are not used as solvents. If the waste plastics will not be recycled by R3 it must be notified as Y48.

These plastics can be exported for recycling in OECD countries under Article 18 controls. Some non-OECD countries may also accept these waste plastics for recycling, but you should check with the relevant competent authority on the controls they apply.

2. The following non-hazardous waste plastics (Y48) will need to be notified to us and receive approval before the export can happen:
 - mixtures of waste plastics, apart from mixtures of polyethylene, polypropylene and polyethylene terephthalate that will be separately recycled and are almost free of contamination and other wastes,
 - waste plastics that are contaminated

- waste plastics destined for energy recovery or that cannot be recycled by R3¹, such as polyurethane foam that is recovered by R1 incineration for energy generation
- waste plastics that are not non-halogenated polymers, cured resins/condensation products or fluorinated polymers, such as poly vinyl chloride

Waste plastics classified as Y48 may move under notification controls to OECD and non-OECD countries but must receive approval from the exporting and importing countries before any waste can be shipped. Movements of EU48 (see below for explanation) between EU member states must be with prior informed consent.

PVC is classed as Y48 within GB and must be moved into and out of the GB with prior informed consent.

3. The Basel Convention also created the new hazardous waste code A3210 but the OECD has replaced it with the code AC300, which includes waste plastic or mixtures of such wastes containing hazardous constituents. Hazardous wastes can only be notified for shipment to OECD countries but are banned from shipment to non-OECD countries. Therefore these wastes must receive approval from the exporting and importing countries before any waste can be shipped.

The changes come into effect when the relevant regulations² are amended to remove B3010 and GH013 (PVC) and add B3011, Y48 and AC300. Three Basel members have chosen to not implement these changes: Canada, China and Turkey but exporters from England must comply with our regulatory controls, including the Basel changes.

For information, the EU is using the codes EU3011 instead of B3011 and EU48 instead of Y48 for shipments within the EU. Movements between member states should use these codes instead. EU48 is NOT the same as Y48. EU48 includes consignments of plastic waste not covered by AC300, EU3011 or the mixtures as specified in Annex IIIA, paragraph 4 of the WSR.

EU48 includes consignments of:

- contaminated plastic wastes (anything that is “not almost free from contamination”)
- plastic wastes with non-plastic wastes
- mixtures of PVC and other plastic wastes,
- mixtures of fluorinated polymers with other plastics wastes,
- mixtures of fluorinated polymers (with the exception of mixtures of perfluoroalkoxy alkanes)

The Basel Convention ‘Technical guidelines for the identification and environmentally sound management of plastic wastes’ is currently being revised. Once published this will be available at::

<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/TechnicalGuidelines>

B3011

The Basel Convention lists 4 types of waste plastics that can be classified as B3011 :

- Non-halogenated polymers
- Cured resins/Condensation products
- Fluorinated polymers
- Mixtures of separated polyethylene, polypropylene and polyethylene terephthalate that will be separately recycled and are almost free of contamination and other wastes,

¹ R3 = Recycling/reclamation of organic substances that are not used as solvents

² The “relevant regulations” here and throughout this document refer to the retained Regulation EC No 1013/2006 as amended by the International Waste Shipments (Amendment)(EU Exit) Regulations 2019 in respect of Great Britain, and Regulation EC No 1013/2006 in respect of Northern Ireland.

However they must also meet both of the following conditions :

- if they are destined for recycling in an environmentally sound manner AND
- if they are almost free from contamination and other wastes.

Two of these categories are non-exhaustive (non-halogenated polymers and cured resins/condensation products) and two are limited to the waste plastics listed below in Table 1 (fluorinated polymers and PE/PP and/or PET mix).

All plastics classified as B3011 must also be recycled by R3 only. R3 is defined as ‘*Recycling/reclamation of organic substances that are not used as solvents*’. A footnote in the Waste Framework Directive (WFD) for R3 states that it ‘includes gasification and pyrolysis using the components as chemicals. The WFD classifies recycling as:

‘Any recovery operation by which waste materials are processed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.’ Therefore R3 could include heat treatment but could be any other recycling process but it does not include burning it for heat recovery.

Plastics, such as polyurethane foam *may be recovered by R1, which is defined as ‘Use principally as a fuel or other means to generate energy’*. Therefore this would need to be notified as Y48 unless it had hazardous properties.

The terms ‘almost exclusively’, ‘almost free from contamination and other types of waste’ have not been defined in the Basel Convention Amendment. However for example to qualify for ‘Green List’ controls a consignment of polystyrene should contain only minimal amounts of other plastic wastes and only minimal amounts of contamination or other wastes. Baling or strapping materials which support the handling of the wastes need not be factored into the assessment of the presence of other materials. The presence of lids, labels and any other materials that were part of a product before it became waste should also not be factored into this assessment. A consignment of polystyrene with more than a minimal amount of polypropylene or other plastic wastes should be described as Y48.

Our current guidance for Green List Waste still applies:

Check your ‘green list’ waste for contamination.

A waste which you may think is ‘green list’ may need prior notification and consent, or may be prohibited if it is:

- *not properly sorted or unsorted;*
- *mixed with a hazardous substance, e.g. if a batch of waste plastic contains residues of pesticide;*
- *mixed with another waste material which is more than a de minimis level of contamination and to an extent which prevents the recovery of the wastes in an ‘environmentally sound manner’, e.g. if glass, metals, plastic or wood are in a consignment of waste paper;*
- *contaminated by household or mixed municipal waste.*

Green list waste must contain minimal contamination when the shipment starts. Information about the operating standards of the intended recycling facility is not relevant to our assessment of whether exported waste is capable of classification as B3011. This decision is based on the quantity, type and quality of contaminant in the waste and is based on the specific waste to be exported. Contaminants include the presence of other polymers in a waste that is being exported as B3011. There is further information about our approach under Article 18 Controls at:

<https://www.gov.uk/guidance/importing-and-exporting-waste>

Table 1: Waste plastic categories and export controls

Waste description	Code	Controls
Non-hazardous single polymer waste plastic that is destined for R3 recycling in an environmentally sound manner and is almost free from contamination and other types of waste. The categories are: <ul style="list-style-type: none">• Non-halogenated polymers, including but not limited to	B3011	Article 18 controls within OECD countries. This waste may be banned or require notification to non-OECD countries. The EC is currently writing to all non OECD countries to

<ul style="list-style-type: none"> ○ Polyethylene (PE) ○ Polypropylene (PP) ○ Polystyrene (PS) ○ Acrylonitrile butadiene styrene (ABS) ○ Polyethylene terephthalate (PET) ○ Polycarbonates (PC) ○ Polyethers • Cured resins/Condensation products, including but not limited to: <ul style="list-style-type: none"> ○ Urea formaldehyde resins ○ Phenol formaldehyde resins ○ Melamine formaldehyde resins ○ Epoxy resins ○ Alkyd resins • Fluorinated polymers <ul style="list-style-type: none"> ○ Perfluoroethylene/propylene (FEP) ○ Perfluoroalkoxy alkanes <ul style="list-style-type: none"> ▪ Tetrafluoroethylene/perfluoroalkyl vinyl ether (PFA) ▪ Tetrafluoroethylene/perfluoromethyl vinyl ether (MFA) ○ Polyvinylfluoride (PVF) ○ Polyvinylidene fluoride (PVDF) 		confirm the controls that will be in place.
<ul style="list-style-type: none"> • Non-hazardous mixture of waste plastic, consisting of polyethylene (PE), polypropylene (PP) and/or polyethylene terephthalate (PET) provided they will be separately recycled and are almost free from contamination and other wastes 	B3011	Article 18 controls within OECD countries. This waste may be banned or require notification to non-OECD countries.
Non-hazardous waste plastics not included in B3011, including waste plastics that cannot be recycled by R3, e.g. polyvinyl chloride (PVC), polytetrafluoroethylene (PTFE)	Y48	Notification controls to OECD and non-OECD countries but consent must be received before the waste can ship.
Hazardous waste plastics	AC300	Notifiable to OECD countries but consent must be received before the waste can ship. Prohibited to non-OECD countries.

What do I need to do next?

If your waste plastic is classified as Y48 or AC300 you should contact the appropriate regulator (detailed below depending on where you are located) to request a notification pack.

The guidance needed to complete your application is available at:

<https://www.gov.uk/guidance/importing-and-exporting-waste#apply-for-import-or-export-notification-controls>

Environmental Regulators

The contact details for the environmental regulators are:

For England:

International Waste Shipments Team,

Environment Agency

askshipments@environment-agency.gov.uk

For Scotland:

Producer Compliance and Waste Shipment Unit,

Scottish Environment Protection Agency

transfrontier@sepa.org.uk

For Wales:

Waste Shipments Unit,
Natural Resources Wales

waste-shipments@naturalresourceswales.gov.uk / cludiant-gwastraff@cyfoethnaturiolcymru.gov.uk

FAQs

I export separated HDPE bales and PS bales in the same container. Is this B3011?

No as that is not “*almost exclusively consisting of one non-halogenated polymer*”. Although the polymers themselves are in separate bales if they are exported in the same container or lorry then they will be considered to be mixed plastics and must be notified as Y48 (unless they are also hazardous when they would be AC300).

I have a container (or a lorry) and it is comprised of 50% of bales that are PE and 50% of bales that are PP (or PET) – is an acceptable mixture to conform with the provisions in B3011?

Yes. A mixed load of these two polymers is acceptable “Mixtures of plastic waste, consisting of polyethylene (PE), polypropylene (PP) and/or polyethylene terephthalate (PET), provided they are destined for separate recycling of each material and in an environmentally sound manner, and almost free from contamination and other types of wastes.

I export PET / PP / PE plastics which are almost free from contamination and other wastes which undergo cleaning and reprocessing into a single plastic pellet – they are not separated into the different polymer types. Are these B3011?

No. Although the mixture of plastics is permitted under B3011 because the different polymers are not separated out the export would not comply with the conditions.

What happens to loads that are in transit over the period of 31 December 2020 and 1 January 2021 that start their journey as B3010, but then become Y48?

We will assess each case on its own merits in line with our compliance and enforcement strategy. We cannot comment on the actions of other competent authorities but where loads which would be classed at Y48 on or after the 1 January 2021 enter or leave GB without the necessary permissions they may be stopped and returned to the source site. Operators should ensure that they are aware of the requirements coming into force.

I export polyurethane for R1 recovery (incineration). Does it need to be notified?

Yes – even if it was a single polymer (which is unlikely) B3011 only applies for R3 Recycling.

I export fridge plastics for R3 recovery. Does it need to be notified?

Possibly - Fridge plastics are likely to be a mixture of ABS, polystyrene and olefins and if not separated into their individual polymers prior to export would need to also be notified as Y48. Any waste being exported as B3011 must be single polymer apart from the 1 allowed mixture as per the details above.

I move Y48 plastics between EU Member states. Does it require a notification?

Yes. Even within the EU, Y48 movements must be covered by a notification. This has been confirmed by the EC.

I want to IMPORT PVC waste from Switzerland. They have indicated they will still view PVC as GH013 and are telling their producers that they can move it on an Annex VII under Art 18. Does that mean its green list?

No. Where two competent authorities differ on their view on the controls that apply, the higher level of controls will always apply. In this case, Under the retained EU law on waste shipments which will operate in GB after the end of the Transition Period the provisions of Article 28(2) “*Disagreement on classification issues*” would apply where one CA classes as waste as Green List and another classes it as notifiable. In such circumstances notifications controls apply.

There is no single OECD stance or position and each OECD country retains its right to control the shipment of mixed and contaminated non-hazardous plastic waste in accordance with its domestic legislation and international law. The EU will apply notification controls on all imports and exports of Y48 plastic from and to the EU from third countries. As a Basel Party, and in the absence of agreement within the OECD, our legal advice is that the UK should take the same approach and implement the new Basel requirements for trade with other OECD countries.