

NATIONAL ASSEMBLY FOR WALES CONSULTATION
PROPOSAL FOR A MEASURE RELATING TO RECYCLING

September 2008

Response of the Welsh Environmental Services Association

1. The Welsh Environmental Services Association ("WESA") is the sectoral trade association representing Wales's managers of waste and secondary resources, a sector with an annual British turnover of around £9 billion. WESA's Members seek to align economic and environmental sustainability through delivering compliance with relevant EU waste and environmental law.
2. WESA welcomes the opportunity to comment on the proposal for a Measure relating to the export of recyclables, put forward by Nerys Evans AM.
3. Our operational Members accept a binding code of conduct that goes some way beyond the requirements of law. With specific regard to the export of materials for recycling, we have engaged with the UK's competent authorities to ensure that our Members understand fully what is required of them.
4. As highlighted in the consultation document, there is a robust legal framework in place to ensure that any waste exported is managed in an environmentally sound manner. This framework is essential to ensure that those operating lawfully do not find their activities undermined by illegal operators.
5. We have also recognised the need for local authorities, as our Members' clients, to have confidence that Green list materials exported for recycling are done so in full accordance with UK, EU and international law. In this spirit we launched the Recycling Registration Service ("RRS"), under which operators of Material Recovery Facilities ("MRFs") can demonstrate that waste material handled at a registered MRF and exported out of the UK by the operator or a broker acting on its behalf:
 - a. is handled or processed at the registered MRF in accordance with good industry practice in the UK;
 - b. accords with Green list waste guidance as verified from time to time by the independent auditor operating under the scheme; and
 - c. when exported goes to a reprocessing facility that is authorised to operate under applicable domestic legislation, is in general compliance with all applicable domestic environmental and health and safety legislation, and is operated to standards broadly equivalent to EU standards.

Consultation Questions

Question 1: Do you think that the proposed Measure will achieve the desired aim of improving transparency and openness in the way that Welsh local authorities deal with recycle?

6. We consider that the proposed Measure would be likely to increase the amount of information published by Welsh local authorities on the amount, nature and destination of recyclables collected from their area. However, we have serious reservations about the practical implications of the proposed Measure and the administrative burden it could place on Welsh local authorities.
7. In particular the requirement to establish the exact proportion of exported material that is recovered (sub-clause 1 (5) (d)) would be an onerous requirement, as once ownership of the material has passed to the reprocessor (e.g. the paper mill), it is under no obligation to provide information on how the material is used in its facility.

Question 2. Do you consider that the proposed Measure is the best means of improving transparency and openness in the way that Welsh local authorities deal with recyclate? If not, which other approaches should be used?

8. No. Recyclables are increasingly frequently collected at the kerbside commingled, and then sent to a MRF to be sorted into material streams before despatch to reprocessors. It is normal practice for MRFs to handle material from a number of local authorities, and to send the processed material to a range of end markets, both UK-based and overseas. This approach is adopted in order to maximise economies of scale and operate facilities in the best way. Requiring local authorities to collect and collate data on the destination of recyclables by the tonne would be onerous.
9. As highlighted by the Environment Agency, the easiest and best way for local authorities to reassure themselves that their waste is being recycled is by being confident that when recyclables are collected in their area, only appropriate inputs are offered to MRFs. Ensuring that the output from MRFs is of similarly high quality will necessitate a close working relationship between the local authority and its respective contractor, and we would encourage this.
10. Rather than the proposed Measure, it might be better if MRFs adopted a quality assurance approach, for example by registering with RRS, to ensure that the facility itself operates in full accordance with good industry practice and that materials exported meet the requirements of applicable laws on transboundary shipments.

Question 3. Are there additional powers that could be included in the Measure to further promote this approach in local authorities?

11. No comment.

Question 4. Do you consider that the implementation of the proposed Measure would lead to residents encouraging local authorities to use recycling facilities that are closer to the source of the recyclate, than those that are further away? Do you agree that publication of the required information will lead to increased interest, and therefore participation, in recycling?

12. We welcome residents taking an interest in the destination of recyclables but the envisaged approach could make it more difficult for local authorities to deal with misrepresentation in the media. While there are vested interests opposing the export of recyclables, exporting recyclables is not inherently environmentally damaging.
13. It is often not appreciated that the UK is now essentially a service economy, with severely depleted manufacturing capability. For the foreseeable future, there will be insufficient reprocessing capacity to accept all materials collected here. The majority of our manufactured goods are imported, particularly from the Far East, and these countries have a significant requirement for raw material which the UK can help to meet by lawfully exporting recyclables to them. This is effectively contributing to "closing the materials loop".

14. WRAP has investigated the carbon impacts of shipping recyclables to the Far East, and has found that shipping these materials to China produces less CO2 than sending them to landfill at home and using brand new materials. Again, the UK collects more material than it can recycle and the alternatives to export are environmentally unattractive.

Question 5. What unintended consequences, if any, could arise from the implementation of the proposed Measure?

15. The most likely unintended consequence would be that local authorities would feel pressurised to seek domestic outlets for their recyclables at a time when such outlets cannot possibly meet such requirements, while also leaving authorities to face potentially hostile media interpretation. This would divert their limited resources away from the provision of public services at a time of increasing financial pressure.

16. There is also a number of ambiguities in the drafting of the proposed Measure. For example, it appears that if a waste collection authority or a waste disposal authority ships just one transaction beyond EU/EFTA borders within a given financial year, it must provide an annual and public statement about all its recovery shipments, even for those within EU/EFTA boundaries.

17. In addition, the definition of the proximity principle included in the proposed Measure does not accurately reflect the definition used in European legislation, by omitting the words *"by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health"*. The abbreviated wording creates undesirable ambiguity between domestic and EU legal text.

18. There may also be concern that the proposed Measure would "gold plate" the requirements laid down in Article 49 of the EU Waste Shipment Regulation (1013/2006), which, while requiring a waste producer to seek to verify that a waste stream being shipped for recovery is managed in an environmentally sound manner, does not appear to require a producer to keep records of all the matters set out in S.55A(5) of the proposed Measure.

Question 6. What do you estimate the costs of complying with the proposed Measure to be for your organisation? Do you consider these costs to be excessive?

19. We cannot offer a formal estimate but we consider that the costs of this proposal would be significant and that the net environmental result could be negative.