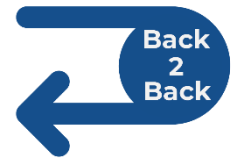


Circularity is challenged by waste definitions



Our consortium submits this position paper to highlight a critical legislative barrier for the development of scalable circular economy solutions in the European Union. We urge an amendment of the waste definitions under the EU Waste Framework Directive (2008/98/EC) to align with destination-based waste criteria rather than criteria based on the holder's intention.

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Lars Haahr Jepsen, Danish Technological Institute, Project Director



Peter Matthiesen, DSV, Senior Director



Christoffer Tange Damborg, Grundfos, Circular Business Lead Project Manager



Flemming Rotborg Johannesen, DXC, Director



Maria Röttgers, Danfoss, Sustainability Team Lead



Erik Sundin, Linköping University, Professor



Esther Finidori, Schneider Electric, Chief Sustainability Officer



Brian Vejrum Wæhrens, Aalborg University, Professor



Philine Kriependorf, Kvadrat, Director, Sustainability

Back2Back is an industry consortium focusing on delivering a scalable framework for take-back solutions. Many companies have identified the need to simplify EU regulations,ⁱ and in this paper we will give a concrete suggestion.

The Challenge: EU's Restrictive Waste Definitions

The current EU Waste Framework Directive defines waste based on the holder's "intention, decision, or requirement to discard". In practice, this approach leads to reusable products being classified as waste, as is clearly seen in the figure below. This definition creates substantial administrative burdens when transporting used goods across borders, which make take-back schemes economically unviable at scale. This is not aligned with the spirit of circular economy, where materials are seen as resources.



Our consortium proposes a destination-based definition where products are classified as waste only when destined for operations that do not lead to the possibility of re-use, including cleaning, repair, refurbishment and remanufacturing. In other words, preparing for re-use should be classified as non-waste.

We recognize that there are many important aspects for the CEA to consider, such as uniform implementation across member states, alignment with broader EU policies, reforms of end-of-waste criteria, and adjustments of EPR schemes. Still, we believe these efforts fall short for unfolding the potential of a circular economy. The core problem is that products become classified as waste in the first place. In fact, EU stands alone among major economies in applying a holder-intention-based waste classification:

- **US:** Waste when the product is no longer usable, wanted, or abandonedⁱⁱ
- **China:** Waste when the product is no longer functional or discardedⁱⁱⁱ
- **India:** Waste when the product is deemed defective, expired, or no longer useful^{iv}
- **Brazil:** Waste at the end of the product life cycle when no longer usable or wanted^v
- **Australia:** Waste when the product is no longer needed or functional^{vi}

The consequence of the current EU legislation is **administrative burdens**. As an example, used products need to be transported in special vehicles approved for waste transportation, and a single truckload cannot contain both used and new products (further details in Appendix). These challenges increase the logistic complexity of take-back

programs dramatically, which in turn leaves many circular business models **economically unviable**. The result is that in the EU, the transition towards a circular economy is restricted by legislation. Additionally, EU companies cannot compete effectively in delivering circular economy initiatives – placing them at a significant disadvantage relative to their global competitors.

Recommendation

To achieve the Circular Economy Act's objectives and enable scalable take-back solutions, we recommend **harmonizing the EU waste definition with the most effective international standards** by adopting destination-based waste criteria. This reform would:

- Reduce administrative barriers for circular economy initiatives
- Improve economic viability of take-back schemes
- Enhance EU competitiveness in global circular markets
- Accelerate progress towards circular economy targets

We stand ready to collaborate with EU policymakers in developing implementation frameworks that maintain environmental protection while enabling the scalable circular solutions Europe needs.

Appendix

Table 1: Differences between cost and burden for transporting waste and non-waste

Category	Under Waste Regulation	As Non-Waste Goods
Cost	Registered or permitted carriers Dedicated transport unit (often Full Truck Load) Additional fees for permits and documentation Non-compliance risk subject to potential fines or penalties	Standard freight rates Standard transport networks
Admin Tasks	Waste classification and documentation (e.g., EWC codes) Notification procedures for cross-border transport (Green waste - Annex 7) Prior written notification and consent from all involved authorities/countries (Amber waste – Annex IA, IB, Contract between parties)	Standard transport documents Minimal regulatory paperwork
Waiting Time	Longer due to approval processes Possible delays at borders for inspections Coordination with environmental authorities	Streamlined logistics

References

ⁱ Example: The Copenhagen Pledge https://www.danskindustri.dk/globalassets/kampagnesites/eu-for-mandskab/ccs_declaration_web.pdf?v=251014

ⁱⁱ Resource Conservation and Recovery Act

ⁱⁱⁱ Law on the Prevention and Control of Environmental Pollution by Solid Wastes

^{iv} Hazardous and Other Wastes (Management and Transboundary Movement) Rules

^v Política Nacional de Resíduos Sólidos (PNRS)

^{vi} National Environment Protection (Movement of controlled waste between States and Territories) Measure