Brussels, 16 October 2026

BIR's consolidated industry response to the public consultation on the draft list of non-OECD countries authorised to import certain non-hazardous waste from the EU

The **Bureau of International Recycling (BIR)** is the world's largest international federation representing the recycling industry, with more than 30,000 companies and over 1,100 corporate members across 73 countries, active in ferrous and non-ferrous metals, stainless steel and special alloys, paper, textiles, plastics, tyres, rubber, and electronics.

BIR welcomes opportunity to provide feedback to the European Commission's proposal concerning the list of non-OECD countries authorised to import certain non-hazardous waste from the EU. Nonetheless, BIR is deeply concerned that the proposed restrictions could significantly disrupt global trade flows, distort markets and limit access to recycled metals in countries and territories excluded from the draft list, while also undermining the future availability of recycled metals within the EU.

Consistent with our public statement of 23 September 2026, BIR is concerned about the proposed exclusion of major markets from authorisation to receive ferrous and non-ferrous metal waste, which could have far-reaching consequences for established supply chains and for those steelmakers relying on access to quality recycled material.

BIR is equally concerned that the different treatment of non-OECD countries within and outside Europe lacks a sufficiently clear and consistent environmental justification, raising questions about the equal treatment of applications. In the absence of objective, country- and waste-stream-specific grounds, the restrictions targeting recycled metals risk being perceived as a protectionist measure intended to retain these materials within the EU, rather than a consistent application of the Waste Shipment Regulation's environmental safeguards.

We urge the European Commission to reconsider the assessment underpinning the proposed authorisations for export of ferrous and non-ferrous recycled metals to non-OECD countries, ensuring that any adopted restrictions are **proportionate**, **legally justifiable**, **grounded in evidence** and **consistent with environmentally sound recycling**.

1. Implications for international trade and recycling supply chains

International trade connects recycled materials with facilities able to process and use them. Particularly for ferrous and non-ferrous metals, European recyclers already supply the majority of their recycled metal output to European industry. Export outlets nevertheless remain essential where European demand and technically suitable treatment capacity

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cannot absorb the grades and volumes available. Restricting those outlets will not automatically create additional demand or processing capacity within the EU.

Aggregate capacity figures do not establish that European facilities can accept every composition, quality or specification currently exported. Rigorous impact assessments should therefore consider actual demand, operational capacity and technical compatibility by grade, alongside generation, consumption, imports and exports.

BIR echoes Recycling Europe's concern that closing international outlets would reduce competition for European recycled metals and leave recyclers with fewer buyers and growing surpluses, placing downward pressure on material values. Lower returns weaken the economic incentive to **collect**, **sort** and **process waste**, and **reduce the funds available to invest** in European recycling capabilities, which could ultimately **undermine future recycled material availability**. Disrupted supplies would also affect receiving facilities and their customers outside the EU. **Predictable regulation and viable markets are therefore essential to the resilience of the global recycling value chain**.

2. Extended consultation period to at least eight weeks

BIR urges the Commission to extend the feedback period to at least eight weeks in total, with a deadline no earlier than **13 November 2026**.

Through coordination with industries and national authorities in affected countries, BIR has been informed that the allocated time is insufficient to coordinate the relevant institutions, examine the published assessments and compile the requested additional data and supporting evidence. Responses may require input from several ministries, regulators and receiving facilities, including permits, emission controls, monitoring records and information on implementation.

Additional time should enable affected countries and stakeholders to address the Commission's concerns point by point and correct factual errors or omissions. BIR recognises the statutory deadline of 21 November 2026 for adopting the first list and asks the Commission to identify a legally workable process that allows meaningful consideration of supplementary evidence.

3. Legal basis and evidence supporting the assessment of ferrous and non-ferrous metals

Drawing on legal assessments conducted on behalf of our European national association members, BIR wishes to bring the following considerations to the Commission's attention regarding the proposed treatment of ferrous and non-ferrous recycled metals under the draft delegated act and its consistency with the applicable legal framework:

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1. Breach of the principle of equal treatment

Unequal treatment of different metal fractions. The principle of equal treatment requires that different situations are not treated in the same way, and comparable situations are not treated differently, unless objectively justified. Ferrous and non-ferrous metals differ in composition, hazard potential, processing needs and potential emissions. BIR therefore questions the stream-specific concerns which are invoked to distinguish metals from other recycled materials, while the proposed treatment of metals does not appear to reflect these differences within the category . The Basel Convention Technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4), adopted by Decision VII/14 and referenced in Part 2, point 1(c), of Annex IX to Regulation (EU) 2024/1157, also distinguish between operations requiring different environmental controls.

Unequal treatment of metals and other waste streams.

- BIR questions the coherence of assessments that recognise a country's capacity to manage certain waste streams in an environmentally sound manner while rejecting recycled metal streams without clearly explaining the relevant differences in treatment conditions or environmental safeguards. This concern is particularly acute where comparable information gaps appear to lead to different authorisation outcomes. Metals retain an intrinsic economic value that provides a strong commercial incentive for their recycling rather than disposal, making their recovery a clear economic objective. We call on the Commission to explain why the non-hazardous metal streams concerned are considered less suitable for environmentally sound recovery than other streams authorised for the same country.

- The Commission's justification for particular scrutiny of metals refers to risks including dust and fume emissions. Such emissions, however, are not exclusive to metals and can also arise from the treatment of other waste streams, including waste pneumatic tyres (B3140). Nevertheless, the draft list proposes authorising these streams for certain countries while excluding metal waste. This difference in treatment raises concerns regarding the consistent application of assessment criteria and warrants a clear explanation of the objective, stream-specific grounds justifying different outcomes.

- Comparison with glass appears particularly relevant too. Under the draft country list, glass exports would be authorised to certain non-OECD countries whose requests concerning metal waste would not be granted. Like metal recycling, glass recycling involves high-temperature processes, significant energy consumption and associated emissions, including NOx and SO2. These shared characteristics warrant a clear explanation of the objective, stream-specific grounds for treating metals differently, taking account of the actual treatment processes and environmental controls concerned.

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2. Breach of the principle of proportionality

Audit requirements. The safeguards established by the Regulation must be considered when assessing whether restrictions are proportionate. Under Article 46, even where a non-OECD destination country and the relevant stream are authorised, shipments will be permitted only to receiving facilities whose compliance with the criteria in Annex X has been demonstrated through the prescribed independent audit procedure. These criteria address pollution prevention and control, monitoring and the management of residual waste; relevant EU treatment requirements and best available techniques (BAT) conclusions serve as points of reference.
If the European Commission nevertheless assumes that the treatment of metal waste does not meet European standards as regards the resulting emissions and, for that reason, imposes a special restriction on metals, this constitutes a manifest error of judgement because relevant parts of the legal framework are disregarded.

3. Breach of the application of the assessment criteria and technical guidance

Energy intensive nature. In the explanatory memorandum to the contested draft, the Commission explains that in applications assessment from countries wishing to import metal waste, it took into account the specific risks posed by their treatment processes and, particularly, their energy intensive nature. However, the technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4), adopted by Decision VII/14 of the seventh meeting of the Conference of the Parties to the Basel Convention, specify that the energy consumption of metal waste treatment processes is lower than that of primary production. By taking the opposite view, the Commission is breaching the criteria for assessing applications from non-OECD countries laid down in Article 42 of the Regulation.

Whereas it might not imply that every metal recovery process is environmentally sound solely because it uses less energy than primary production, it does suggest that energy intensity should be assessed in context, with due regard to the relevant technical guidance and the differences between treatment routes. BIR therefore urges the Commission to take note of these considerations in its assessment and to substantiate any departure from the guidance referenced in Annex IX.

4. Exceed of empowering provision and contradiction with legislative assessments

Higher hazard profile. The higher hazard profile of metals, by reference to the potential presence of toxic heavy metals such as lead, mercury, cadmium and hexavalent chromium cannot justify subjecting non-hazardous metals falling under Article 40 of Regulation 2024/1157 to particularly strict scrutiny. The **metal waste classified on the so-called Green List does not fall under the export prohibition in Article 39(1)(a) of Regulation 2024/1157**; moreover, even in an individual case,

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contamination must not increase the hazard potential within the meaning of the so-called chapeau of the Green List or prevent environmentally sound recovery, since otherwise the export prohibition in Article 39(1)(e) of respective Regulation applies.

Therefore, by justifying a general presumption against all non-hazardous metal fractions and rejecting applications of non-OECD countries for the recovery of 'non-hazardous' metallic waste on the grounds of the 'potential presence of persistent and toxic heavy metals', the Commission is strongly believed to exceed the power conferred by the Regulation.

Lack of clarity on supplementary information and reassessment. The Commission's Staff Working Document identifies insufficient information on the management of metal waste as a reason for several proposed exclusions, and we request for such information gaps to be distinguished from demonstrated non-compliance with the environmental requirements. It remains unclear whether all affected countries and territories were given the opportunity to address the specific gaps identified and whether the procedural requirements under Article 43(2) and (3), concerning supplementary information and notification of reasons for rejection, were fully observed. We therefore request clarification on whether additional evidence can lead to reassessment before adoption of the list or shortly thereafter, rather than being deferred to a subsequent review.

4. BIR calls on the Commission to:

- **Extend the feedback period to at least eight weeks.** Allow affected countries, industries and national authorities sufficient time to coordinate and submit substantiated responses. Establish a clear procedure and timetable for submitting and assessing supplementary evidence, including country-specific clarification on whether it can lead to reassessment before adoption of the list or promptly thereafter, without waiting for the next periodic review.

- **Review the legal approach underpinning the delegated act and reassess the recycled metal exclusions.** Revisit the interpretation and application of the empowering provisions and the evidence used to propose prohibiting exports of ferrous and non-ferrous metal waste to non-OECD countries that have requested authorisation to receive it. Provide clear reasons by country and stream, reflecting waste classifications, equivalent environmental protection, mandatory audits and relevant technical guidance.

- **Explore an alternative facility- and material-specific approval model.** Enable recycling industry to demonstrate compliance for identified streams and receiving facilities, with robust verification and enforcement, by identifying the scope available within the current Regulation and any legislative changes necessary to implement the model.

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- **Provide predictable regulatory conditions and continued engagement.** Avoid blanket assumptions based on aggregate capacity or export volumes, and assess actual European demand and treatment capacity for the metal grades concerned, alongside the consequences for collection, sorting, processing and investment. Provide businesses and affected countries with **clear assessment criteria** and engage with recycling industries and national authorities to support compliant supply chains. Closing established export outlets where European demand cannot absorb the available grades and volumes risks reducing competition for recycled metals, depressing material values and creating regional surpluses.

BIR remains ready to support constructive dialogue and the exchange of technical evidence to ensure that the final delegated act and list of authorised non-OECD countries are proportionate, grounded in evidence and consistent with environmentally sound recycling, while preserving responsible international recycling supply chains. The BIR Secretariat remains available for further engagement and any additional clarifications.

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