

Table 1 - Prevalent challenges to materials crossing borders

Policy obstacles	Description
<p>Harmonized System codes</p> <p>Would specific tariff codes need to be adopted to enable and facilitate a circular global supply chain? What should tariff numbers cover when we consider the wide variety of recycled materials and eventual reverse flow of products that will be in play within the circular economy?</p>	<ul style="list-style-type: none"> • The current set-up within the Harmonized Tariff codes does allow for waste or scrap materials, but typically only by component materials. For example, there are tariff provisions for paper waste and scrap, which are different from the waste and scrap provisions for wood, and there is no provision for waste and scrap in the furniture section. Each chapter on metals has its own provision for waste and scrap, but there is no provision allowing for a mix of iron, steel, copper or zinc, etc. The textile provisions are similar and broken down by wool, cotton, synthetic/man-made, vegetable fibres, and silk. Other than some tariffs under 6310 ("Used or new rags, scrap twine, cordage, rope and cables and worn-out articles of twine, cordage, rope or cables, of textile materials") and under section XVI (related to machines), there are no tariff provisions for materials or products for used, refurbishing or recycling purposes. • Tariff provisions would need to allow for bulk shipments of different/mixed materials that can be co-mingled. • Clear definitions and distinctions are needed to differentiate between the various loops of circular models, and tariff provisions aligned appropriately. An internationally harmonized and accepted definition of waste is needed, as currently what can be considered as "waste" in some countries is in others considered "material". Definitions could distinguish between materials designated for waste or recycling, and those materials or products that are destined for refurbishing or reuse. • Among other regulatory provisions, tariff numbers are typically associated with a duty rate, as determined by each country. To encourage and create sustainable circular supply chains, countries should be encouraged to consider attractive tariff provisions, or even unconditionally duty free provisions, for circular approaches.
<p>Clear regulations</p>	<p>Regulation alignment for "used goods" is needed to:</p> <ul style="list-style-type: none"> • distinguish between "used" goods intended for resale and refurbishing, as used by another end consumer (securing basic consumer protections for used goods considered viable and acceptable to governments and consumers), and "waste/recycled" goods and materials (where the above-mentioned protections are no longer necessary); • enable cross-border flows - many countries today do not allow for cross-border flows of "used goods" or "waste materials". <p>These clearer regulations would also be able to recognize the quality of recycled/recovered resources, keeping up with technological advances that are capable of recovering resources from waste. These available processes can offer opportunities to access valuable resources, whose safety shall be proven by case studies and established criteria attesting to their quality for different purposes (e.g. consumer, chemical processes or construction).</p> <p>For instance, the company Ragn-Sells has developed a process (ASH2@PHOS)¹ that produces clean phosphorus products from incinerated sludge ash. The recovered phosphorus could be used in fertilizers or feed phosphates, among other products - but it is not accepted as a safe raw material since it is considered as "waste", even though the quality is higher than mined phosphorus (which can be contaminated by heavy metals, such as cadmium and uranium). This highlights the need to shift from today's origin perspective to a quality perspective when looking at resources still considered as waste.</p>
<p>Burden of proof/enforcement</p>	<p>Once provisions are implemented to accommodate a cross-border circular economy, countries will need to adopt measures to apply and enforce such provisions. Guidelines on how to adequately establish a burden of proof for imported/exported goods intended solely for circular or recycling purposes will be needed and should be aligned across countries and within the international rules-based trade framework.</p>

¹ Ragn Sells (16/09/20): Ash2Phos - pioneering patent for vital nutrient. See <https://www.ragnsells.com/what-we-do/inspired/ash2phos---the-story/>, (31/05/22).

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Country of origin declarations	<p>In circular flows, shipments may comprise the various differing country of origin sources, or the country of origin may not be known or accessible, making it impossible for cross-border shipments under today's declaration requirements. To allow the establishment of a circular economy, Customs authorities should be encouraged to forego country of origin data/details for:</p> <ul style="list-style-type: none"> ● declaration purposes; ● certificate of origin purposes; ● exporter statement purposes; ● commercial invoice and/or packing list purposes; ● marking/labelling purposes.
Handling by agencies other than Customs	<p>Many countries have other government agencies for which Customs authorities collect data and/or enforce regulations. In a circular economy or recycle (reverse) supply chain, having to provide the requisite details for each piece in a shipment is impossible. Both Customs authorities and the other government agencies should be encouraged to waive such requirements for recycled/circular goods. Requirements should be reviewed and adapted for goods in refurbished and reuse loops, such as:</p> <ul style="list-style-type: none"> ● timber legislation and/or traceability requirements; ● consumer product protection requirements (lab reports, marking, flammability reports, labels, food contact); ● phytosanitary certificates, reports, details; ● quarantine requirements; ● carbon (CBAM-type) reporting details; ● formaldehyde reporting requirements.
Valuation determination for shipments of "used" goods or "waste" materials	<p>The international rules for Customs valuation require all imports and exports to have a value based upon the valuation definitions and rules provided for in the General Agreement on Tariffs and Trade (GATT). New valuation methods are needed and should be included in the GATT Article VII Valuation base, as indicated below.</p> <ul style="list-style-type: none"> ● When buying or obtaining "used products" in bulk intended for resale for refurbishing, recycling or reuse purposes, a piece-level price (typical for new products) may not be available. In conjunction with consideration of tariff provisions specific to the four loops of circular models (reuse, refurbishment, remanufacturing and recycling), the valuation methodology should allow for the total value of the bulk/batch buy to be allocated. ● For products considered waste/recycle materials and end-of-life, it is plausible that there is zero value. There may not be a buy/sell transaction. Waste/recycle materials would not have an inventory value, a book value or a commercial value. A zero-value provision should be considered, and requirements developed and provided on how it could be applied specifically for transactions associated with recycling/circularity.
Consistency in regulations	<p>There are misalignments in the framework of regulations within countries and among members of trading blocs with regard to their regulatory bodies and Customs regulations. For example, when working with recycled materials today, there is a discrepancy between EU fibre regulations and EU Customs regulations, as indicated below.</p> <ul style="list-style-type: none"> ● To describe the fibre content of a textile product as "fabric: 100% mixed fibres" would be acceptable under Regulation (EU) No 1007/2011 in relation to fibres, but not under EU Customs rules. ● A product described as "100% mixed fibres" cannot be classified under EU Customs legislation, and a tariff code may not be assigned². ● It is acceptable to use the term "100% mixed fibres" only if additional information is provided and one of the fibres is predominant: <ul style="list-style-type: none"> - 100% mixed fibres (100% recycled, min. X% fibre 1), where fibre 1 shall make up a minimum 51% of textile fibre content; - 100% mixed fibres (100% recycled, min. X% fibre 1, min. Y% fibre 2), where either one of the fibres 1 or 2 shall make up a minimum 51% of the textile fibre content. <p>Misalignments like these are a key obstacle to adopting and developing circular capabilities for businesses that wish to move towards more prominent use of recycled materials.</p>

² An article without tariff code may not be sold in another market than the market where it is manufactured.