

In This Issue

Basel is Not Just a Swiss Riverside Town ... Or an Herb

Tax Reform 2.0

States Take Aggressive Tactics on Data Privacy

U.S. Ferrous Scrap Exports Rise Sharply Despite Shifting Trade Policy Landscape

***Basel* is Not Just a Swiss Riverside Town ... Or an Herb**

The *Basel Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal* – the Basel Convention for short – is an international treaty that entered into force in 1992 to ensure rich countries are not illegally disposing of hazardous materials into poorer countries. The convention arose because environmental protection laws were tightening in the developed world, leading some to seek disposal options outside their borders while some less developed countries also saw earnings potential by taking in other countries' solid waste. Unfortunately, public attention was drawn to the environmental harm caused in these countries by poor handling and disposal of products containing hazardous materials, such as the old cathode ray tube (CRT) televisions and monitors containing mercury and other constituents that are defined as hazardous in the Basel Convention. With 186 signatories, the Basel Convention today has effectively cut down on the illegal cross-border movement of electronics and other products containing hazardous materials, but what happens if the scope of coverage is suddenly widened? We may find out in the coming year.

“Scourge of Plastics Waste” In June, the Norwegian government proposed to categorize “plastic waste and scrap” as hazardous under the Basel Convention. ISRI and others immediately voiced opposition as it would put a halt to the plastics scrap trade.

- The Basel Convention requires exporters to **seek informed consent** before material can be exported, but most poor countries do not have the capacity to manage the current log of requests, with one exporter reporting they have been waiting more than two years to obtain approval. Such an administrative burden would detract from trade.
- The **United States is not a signatory to the Basel Convention**, and even though exports are allowed to OECD (*i.e.*, developed) countries, trade could not take place to others, including India, and many less developed countries would not be able to export recyclable plastics to the United States, which they would do if they lack recycling capacity.

- The proposed Ban Amendment, which will **prohibit the cross-border trade** of hazardous materials from OECD countries to non-OECD countries, requires just two more signatory countries to go into effect.

So What? Norway’s noble cause is to keep plastics out of the oceans, and they are searching for any and every avenue to drive an international effort to address the growing problems of marine litter. The Norwegian government believes the plastic waste trade is partly to blame, but they heard our opposition, and at a meeting in September, sought to revise their proposal to only categorize “low quality” and non-recyclable plastics as hazardous. They have also proposed to create a dialogue between governments, industries, and civil society to talk about how to reduce waste, increase recycling and enhance waste management.

Although we support a dialogue, ISRI is still concerned about how a segregation of good and bad end-of-life plastics could be effectively implemented, and what might this mean for setting a precedence for any Basel Convention member to propose other materials for a hazardous classification because of domestic interests. Worse, how might such a proposal lend China credence for its scrap import bans and lead other countries to follow suit?

What’s next? ISRI will be an active and outspoken voice in this debate, including when the next big meeting of the Basel Convention takes place next spring.

Tax Reform 2.0

With mid-term elections on the mind, House Ways and Means Committee Chairman Kevin Brady (R-TX) pushed through three bills. The intent is to make permanent previous tax reforms, including reducing the marginal tax rates for businesses and individuals and the depreciation allowances for businesses. Initial estimates are that the combined trio of bills will cost approximately \$657.4 billion over ten years.

The details of each act follow:

- **Protecting Family and Small Business Tax Cuts Act of 2018 makes permanent the individual tax changes from** the 2017 Tax Cuts and Jobs Act, which are currently set to expire in 2025:
 - The new individual tax brackets;
 - Expanded standard deduction and child tax credit;
 - Increased estate and gift tax exemptions;
 - The \$10,000 aggregate cap on the state and local tax (SALT);
 - Property tax deductions (which has opposition from some Republican members from high tax states); and

- The new Section 199A deduction for qualified business income from pass-through entities (the IRS issued proposed regulations earlier this summer).
- **Family Savings Act of 2018 incorporates some provisions drawn from the Senate's Retirement Enhancement Savings Act of 2018 (RESA), that we have reported on:**
 - It *does not* include a proposed provision which would eliminate the stretch IRA and force non-spouse beneficiaries to take funds out of an inherited IRA within five years.
 - It does include the following:
 - Changes to the rules for multiple employer plans (MEPs);
 - Expands the types of groups that can come together and sponsor a MEP;
 - Creates a new universal savings account similar to a Roth IRA
 - Individuals may contribute up to \$2,500 per year, to grow tax deferred
 - Unlike a traditional IRA, the savings in such an account could be removed without restrictions and with tax on withdrawn earnings
 - Elimination of the maximum age for IRA contributions; and
 - Elimination of the required minimum distribution (RMD) requirement for retirement accounts with less than \$50k as well as Section 529 (college savings) plans.
 - **c**; and then
 - Amortize additional costs beyond the limit over 180 months.

What can we expect? Chairman Brady has indicated he wants to move these three bills to the House Floor following the mid-term elections. However, action on these bills by the Senate is not expected this year.

States Take Aggressive Tactics on Data Privacy

Taking a cue from the European Union's expansive new [General Data Protection Regulation \(GDPR\)](#), states have begun looking to safeguard personal information in a way the federal government has so far been unwilling to do following numerous high profile breaches and revelations that Facebook and possibly others have been selling personal data for purposes unbeknownst to consumers.

The **first of its kind in the states**, California lawmakers this June adopted the [California Consumer Privacy Act](#) (CCPA) which is considered the toughest and most complex data privacy regulations in the United States. Large companies doing business in California have already adopted policies themselves, essentially spreading the power of the law across the country. However, the law is complicated and its emulation by other states is not guaranteed as evidenced by the actions of Ohio, which enacted the [Ohio Data Protection Act](#) in August.

What is the Impact? This depends on whether the state is taking the “carrot or the stick” approach. Corporate liability is contingent upon the approach the state takes to address the issue. For example, California takes the stick approach requiring as of January 1, 2020, that consumers will be allowed to take legal action against a company that violates tenets of the law. The statute establishes a fairly [broad definition of personal information](#) that includes a whole raft of personal identifiers and inferences a company might be able to make about the consumer from that data. Ohio, on the other hand, takes the carrot approach by [incentivizing companies](#) that compile and transfer personal data to better protect that information by granting them safe harbor from litigation over breaches if certain conditions are met.

Why it Matters? For the recycling industry, personal data collection is most often mandated by laws designed to address materials theft and there is little evidence to indicate that policymakers’ new focus on data security has taken such mandates into account. Recyclers need to be closely following the policy discussions on data security in their states, particularly if the state and/or localities have mandatory electronic recordkeeping and/or reporting laws on the books. This is because despite the differing approaches seen in California and Ohio, for example, both state approaches indicate it is practically-certain that the personal information collected by recyclers under materials theft laws is going to be covered by almost any new data security law.

Get to the Table Early. If recyclers are not part of the early policy discussions on data security protections, our concerns will not likely be heard or will fall on deaf ears. Recyclers are not considered to be players in this debate and probably do not want to be seen as such. However, the liability and security provisions are far-reaching and without input from the industry, policymakers likely will not connect the fact that **recyclers are not profiting from data collection** that is mandated on them. There needs to be an express exclusion in the law that protects recyclers from the extensive liability in these laws and places such liability on the entities requesting the data – mainly law enforcement and/or its private sector agents’ third party data collection agents.

U.S. Ferrous Scrap Exports Rise Sharply Despite Shifting Trade Policy Landscape

- According to official trade data from the U.S. Commerce Department, year-to-date U.S. ferrous scrap exports (excluding stainless steel and alloy steel scrap) increased 27 percent year-on-year through July 2018 to nearly 9.3 million metric tons. Including stainless and alloy steel scrap, U.S.

ferrous scrap exports were up 26 percent to more than 10 million metric tons. The largest net market gains in total U.S. ferrous scrap exports this year were as follows (numbers rounded to the nearest 1,000):

- Turkey (+396,000 tons)
- Egypt (+290,000 tons)
- Taiwan (+250,000 tons)
- Malaysia (+210,000 tons)
- India (+210,00 tons)
- Bangladesh (+186,000 tons)
- Vietnam (+170,000 tons)
- Indonesia (+168,000 tons)
- Canada (+160,000 tons)
- Mexico (+148,000 tons)

In contrast, U.S. imports of ferrous scrap (excluding stainless alloy steel scrap) were up a mere 0.01% to 2.325 million metric tons. As a result, the United States remains a large net exporter of ferrous scrap and continues to be the world’s leading exporter of ferrous scrap. Here’s the recent trend monthly trend in U.S. ferrous scrap imports and exports, both including and excluding stainless and alloy steel scrap, according to the U.S Commerce Dept. Commerce Department trade data:

Monthly U.S. Ferrous Scrap Exports and Imports, Jan 2017 - Jul 2018 (metric tons)

Sources: U.S. Census Bureau and U.S. International Trade Commission

