

STATES OF JERSEY



IMPORTATION OF WASTE: APPROVAL BY THE STATES ASSEMBLY (P.17/2010) – AMENDMENT

**Lodged au Greffe on 6th April 2010
by the Minister for Transport and Technical Services**

STATES GREFFE

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After the words ‘shall not proceed’ remove the words ‘and that no discussions or negotiations on this matter shall take place’.

MINISTER FOR TRANSPORT AND TECHNICAL SERVICES

REPORT

Amendment 1

If adopted the revised proposition would read as follows –

to agree that the importation of waste into Jersey for treatment in the Island's Energy from Waste plant shall not proceed until the principle of waste importation has been discussed and approved by the States Assembly.

The purpose of this amendment is to enable the Minister for Transport and Technical Services and other Ministers to discuss, and if in the interests of the States of Jersey, negotiate with their counterparts in Guernsey, Alderney and other Channel Islands, regarding potential opportunities that those jurisdictions may wish to consider for disposal of waste within Jersey's new Energy from Waste Facility.

Without this amendment, Jersey may lose the potential opportunity to generate income, which could be re-invested in Jersey's recycling infrastructure without any detriment to Jersey's own waste disposal needs. In these times of financial concern, it is increasingly important for the Channel Islands to cooperate where this produces efficiencies provided this results in mutual benefit and this amendment provides important opportunities that deserve full consideration.

With regards to the two substantial concerns raised within P.17/2010 –

Firstly

- (a) P.17/2010 raises concerns that States Members might be under pressure to agree waste import without the La Collette Energy from Waste facility being operationally proven.

No formal arrangements with any other Island would be entered into until such time as the States of Jersey and the appropriate authority of other jurisdictions had indicated their agreement and the new La Collette Energy from Waste facility had completed its operational commissioning successfully and in compliance with statutory requirements.

States Members can be reassured that the La Collette facility would be required to meet all necessary health and environmental consents, and the Minister for Transport and Technical Services would have to be satisfied that no unacceptable risk to Jersey's waste disposal arrangements existed, before any waste would be accepted from any other jurisdiction.

Therefore, discussing potential waste arrangements with other Islands prior to an agreement being reached will not put undue pressure on States Members to accept such potential arrangements.

- (b) P.17/2010 raises the concern that Jersey may become by default a waste repository for the whole of the Channel Islands and that, as recycling may increase over time, it would be unwise for the Island to enter into any long term commitments to incinerate waste for others.

The Minister for Transport and Technical Services can reassure States Members that any arrangements with another Island would be for transitional periods only to enable those other Island's to implement their own sustainable waste management strategies. For example, the States of Guernsey is developing a new waste strategy and therefore requires a modern means of managing its waste until this strategy can be implemented.

A new waste strategy will take time to prepare, consult upon and approve. This means it is unlikely that any proposal for importing waste from Guernsey, meeting the requirements outlined in this Report, could be available in an acceptable form for consideration by the States of Jersey, before commissioning of the new La Collette Energy from Waste facility takes place, which contractually should occur by June 2011.

It is also the case that the projected growth in waste arising in Jersey means that capacity will only be available for other Island's waste for a limited period until it is required for Jersey's waste. States Members can be reassured that priority would always be given to Jersey's own waste disposal needs.

The acceptance of waste for treatment would generate vital income that would enable investment in Jersey's own recycling capacity – income for which there is currently no other revenue source – and in any other environmental and health measures necessary to ensure that any impact of the proposal is mitigated, regulated and monitored appropriately. By investing income in recycling, Jersey would benefit both environmentally and financially. Without this investment, alternative means of funding any increase from current recycling levels would be necessary.

Secondly

- (c) P.17/2010 suggests that discussing potential waste import in Jersey could be used by others to influence public decisions in Guernsey.

On 5th March 2010, the States of Guernsey approved an amendment which mandated that jurisdiction's Policy Council to ascertain the most beneficial contractual terms on which the States of Jersey would agree to import and dispose of waste exported from Guernsey and to report thereon as soon as practicable. The Chief Minister has received a letter from the States of Guernsey Policy Council informing him of this mandate and requesting that discussions take place. On 14th September 2009, the States of Alderney wrote to the Minister for Transport and Technical Services asking whether consideration could be given to accepting waste from that Island. These two Islands have therefore both formally requested discussions with regards to the possible import of waste.

The Council of Ministers have been very careful to avoid influencing the waste management debates in any other Island. But having been approached by two Islands, it appears not to be in the best interests of Jersey to refuse to discuss even the potential for such arrangements. States Members will have

every opportunity within the debate for P.17/2010 to indicate if they believe that such discussions are not sensible.

Summary

Given the scale of potential benefit, it is important for States Members to understand all the matters that would be addressed before a proposal for importing waste would be put to them for consideration. These are summarised in Appendix 1 to this Report.

Offering capacity to neighbouring Channel Islands has the mutually beneficial advantages of supporting those islands in optimising their sustainable waste management arrangements and also would enable investment in Jersey's own recycling capacity without detriment to our own waste disposal service. The La Collette facility is sized for Jersey's future needs, but there has always been a window of opportunity for other Channel Islands to use the spare capacity in the early years of operation.

As space for the disposal of ash is restricted in Jersey, it is considered that the relevant proportion of bottom ash and air pollution control residues (fly ash) produced from the disposal of additional exported waste would need to be returned to the exporting jurisdictions or exported elsewhere for final disposal.

The Council of Ministers fully support that any agreement to import waste must be ratified by both the Jersey and exporting jurisdictions decisions, as well as the competent authorities who regulate such transfers. However, the potential advantages of such an arrangement justify further consideration of this and it is therefore recommended that States Members accept this proposed amendment to P.17/2010.

Financial and manpower implications

The potential for income generation from waste import is significant. There are therefore significant financial implications for the States arising from this Proposition if it is accepted unamended.

If an indicative gate fee of £120 per tonne for available capacity is employed, up to £4 million per annum could be made available to the States of Jersey from accepting waste imports. In the current difficult financial environment, it is considered vitally important that every opportunity for income generation is fully appraised.

This funding stream could be re-invested in increasing the recycling capacity of the Island beyond the level achieved as a result of investment in the Solid Waste Strategy (P.95/2005). Such investment should enable the 36% recycling rate set by the previous Minister for Transport and Technical Services to be achieved and exceeded, and would enable for example, additional materials collected in new Parish kerbside recycling schemes to be exported for recycling. There is no other funding stream currently available for increasing recycling beyond current levels.

A considerable amount of Officer time would be required to develop import procedures and to ensure any import agreement is robust. There are therefore manpower implications associated with acceptance of the amendment, but these can

initially be met within current resources within the Transport and Technical Services Department by re-prioritising other activities.

If further detailed assessment of proposals from potential importing jurisdictions were to be progressed further, there may be a need for Officer time to be dedicated from within the Departments of Transport and Technical Services, Health and Social Services and Planning and Environment, which would require funding and / or reprioritisation of other activity to address.

APPENDIX 1

MINISTER FOR TRANSPORT AND TECHNICAL SERVICES

ISSUES TO BE ADDRESSED PRIOR TO CONSIDERATION OF WASTE IMPORT

The following matters would need to be addressed before a proposal for importing waste would be put to the States of Jersey for consideration.

Legal

Importation and exportation of wastes are permitted under the Waste Management (Jersey) Law 2005 provided strict controlling procedures are observed and the requirements of the international Basel Convention (1992) are met.

Under the Waste Management (Jersey) Law 2005, it would be necessary for any Channel Island wishing to export or import waste, to or from Jersey, to demonstrate to their own Competent Authority and to the satisfaction of the Minister for Planning and Environment (as Jersey's competent Authority) that the requirements of the Waste Management (Jersey) Law 2005 have been met.

This would include demonstrating that the principles of proximity, priority for recovery and self sufficiency within Article 4.3 of the European Waste Framework Directive (75/442/EC) have been observed, as well as other matters, and that wider local environmental and health policies are not compromised. The Minister for Planning and Environment has set out the environmental policy matters that would need to be addressed and this has been summarised within Appendix 2 to this Report.

Under the Basel Convention, in order for waste to be exported, transported between jurisdictions and imported, a bilateral agreement or equivalent must first be made between the competent Authorities of those jurisdictions.

The Ministers for Health and Social Services and for Planning and Environment would both need to be confident that the requirements of the Waste Incineration Directive (2000/76/EC) would still be met and that there were no adverse health or environmental impacts from the importing operations.

Provisional discussions with Officers representing the Ministers for Planning and Environment and Health and Social Services have not identified any legal issue that could not be addressed satisfactorily.

Strategic

There is nothing within the approved Jersey Solid Waste Strategy (P.95/2005) that would mitigate against importation of waste for energy generation, nor would the import of appropriate amounts impact detrimentally on delivery of the Solid Waste Strategy.

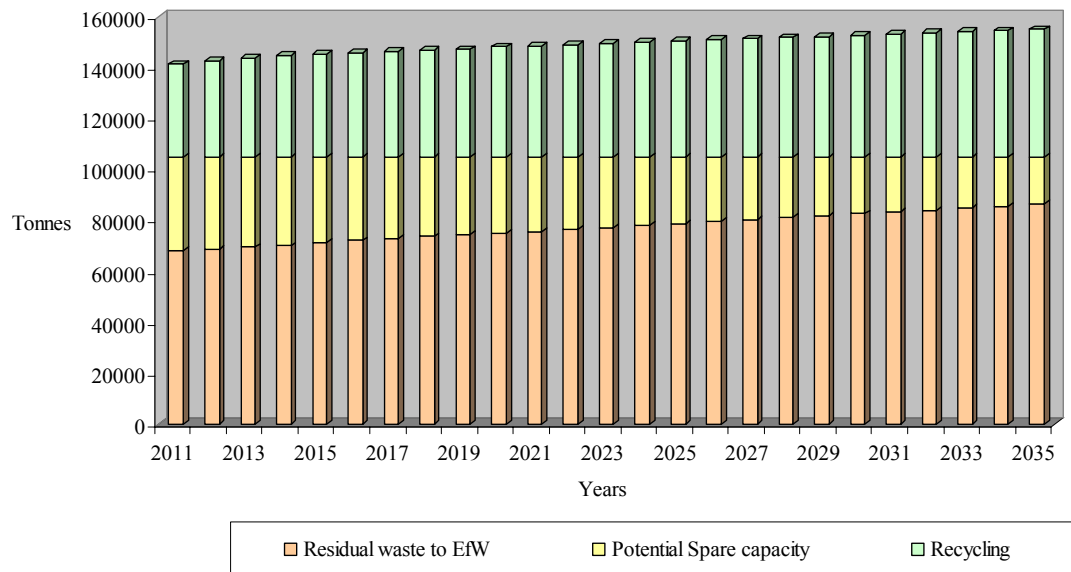
Only spare capacity would be considered for waste imports, ensuring that Jersey's own recycling and energy recovery rates would not be effected. Indeed, recycling rates could be significantly enhanced if income from any received waste were to be re-invested directly in recycling infrastructure.

There is projected to be sufficient capacity in the La Collette Energy from Waste facility to permit at least 30,000 tonnes of waste to be received for at least a 10 year period. This is because the La Collette facility has been sized to allow for the growth in solid waste projected as a result of anticipated economic growth, increases in household numbers and reductions in household size.

Following the global economic down-turn, which has caused a reduction in waste received for disposal in the last 2 years, there may be potential for an increase in the quantity or duration of waste receipt above these levels. However, when measured over the last 5 years, total non-inert waste grew at an equivalent rate of approximately 0.5% per year.

As an illustration, the chart below indicates the potential available capacity within the La Collette Energy from Waste Facility that may be available if planned recycling activities are introduced as scheduled but residual waste continues to grow at 0.5% level.

Potential Capacity at La Collette Energy from Waste Facility 2011 - 2035



A cautious and prudent approach would be taken in considering what quantity could be appropriate to accept for what period. It would be necessary to review and align sustainable waste management approaches between jurisdictions wishing to export waste and Jersey, particularly with regards to the amount of recycling undertaken and diverting waste streams to ensure that the waste acceptance criteria for the Energy from Waste facility are met at all times.

Operational

Any agreement would require the exporting jurisdiction to put in place waste acceptance controls to ensure that the received wastes were acceptable to the Minister for Planning and Environment within the Waste Management Licence under which the La Collette Energy from Waste facility will operate. This would require the removal of hazardous waste, which would not be accepted for import.

The exporting authority could shred or compact waste to reduce its transport impact and would have to arrange for either roll-on-roll-off or lift-on-lift-off marine transportation in enclosed containers. Enclosed waste could be unloaded and transferred directly to the Energy from Waste facility where it would be tipped directly into the enclosed bunker.

The number of daily vehicle movements would not be significant. For example, to transfer 30,000 tonnes of waste by lift-on-lift-off transfer, assuming 200 shipping movements per year and approximately 10 tonnes per vehicle movement, there would be approximately 15 vehicle movements per shipping movement between the harbour and La Collette. It would be necessary to ensure that these did not coincide with peak traffic flows within the La Collette environs.

The La Collette facility has been designed to manage 105,000 tonnes per annum and will be able to accept waste in a variety of bulk containers and vehicles. The combustion, waste and ash handling processes are all able to manage this additional capacity on an on-going and continuous basis without detrimental effects.

There would be additional planned maintenance required as a result of accepting additional capacity earlier than intended, but this could be managed within current arrangements proposed, provided that the costs were met within the gate fee charged to the exporting jurisdiction. The La Collette facility process and civil infrastructure has been designed to operate for 25 years at its full capacity of 105,000 tonnes without detriment.

Environmental

The Minister for Planning and Environment has set out the environmental policy matters that would need to be addressed and this has been summarised within Appendix 2 to this Report.

Only waste acceptable under the Waste Management Licence would be accepted for disposal. Hazardous waste would not be imported by Jersey for incineration. Both Jersey and the exporting jurisdiction would impose robust mechanisms to ensure that this is the case.

No detrimental emissions would occur as a result of imported waste being disposed of at La Collette. All waste operations would need to meet the Waste Incineration Directive (2000/76/EC) requirements under which the facility will operate and this would apply to all waste imported too. The Waste Incineration Directive sets tight controls on the levels of emissions permitted.

There would be an increased flow of Flue Gas as a result of the increased throughput, but this would be no greater than that already planned for the projected levels of

Jersey waste, and will be within the limits set under the Waste Management Licence. Use of chemicals (lime, carbon and urea) used within the Flu Gas Treatment system to eliminate pollutants would increase slightly, which would also be built into the gate fee charged to the exporting authority.

Once all hazardous waste has been removed from incoming waste, the bottom ash from the incineration process can readily be recycled into a useful inert aggregate, as happens across Europe. Up to 92% of all incoming waste by weight can thereby be converted into a viable product. The Air Pollution Control residues (or fly ash) from the process makes up the approximately 7% of the residual output by weight and this has to be disposed of in a sealed and lined landfill pit in a controlled manner.

As space for the disposal of ash is restricted in Jersey, it is considered that the relevant proportion of bottom ash and Air Pollution Control residues (fly ash) produced from the disposal of additional exported waste would need to be returned to the exporting jurisdictions or exported elsewhere for final disposal. This would be subject to full health, environmental policy, regulatory and legal review to ensure compliance with all relevant requirements.

Financial

An indicative “gate fee” cost of £120 per tonne for accepting 30,000 tonnes of waste for 10 years from Guernsey has been provided previously to the States of Guernsey.

This indicative gate fee included the cost of increased consumables and maintenance, but not transport between the Islands. The details of the type of waste, method of acceptance, energy value and legislative compliance have not yet been assessed in detail. There is therefore the possibility for the proposed price for importing waste to decrease or increase when these matters are considered in full.

Any proposed agreed financial position would come down to a politically-led negotiation between the Islands. The final negotiated financial value, quantities, guarantees, timescales, and engineering solutions would be brought back to the States of Jersey as a Report and Proposition to sanction the importation of waste from any other Channel Island.

No waste will be accepted in Jersey until the importation of waste is approved by the Members of the States of Jersey.

APPENDIX 2

MINISTER FOR PLANNING AND ENVIRONMENT

ENVIRONMENTAL MATTERS THAT WOULD NEED TO BE ADDRESSED PRIOR TO CONSIDERATION OF WASTE IMPORT

Summary Position

The Minister for Planning and Environment's summary position is that importation of wastes from other Channel Island jurisdictions can take place lawfully when undertaken in accordance with required protocol. There is no established policy in Jersey against the importation of wastes but the proposal raises significant questions in respect of –

- the proximity principle;
- impacts on environmental policy and carbon accounting under the Kyoto Protocol;
- operational impacts and requirements;
- environmental reputation issues;
- residue disposal and protocols.

Consideration should be given to the potential for denigration of Jersey's environmental reputation, which if not handled carefully may have knock-on effects to the economic status of the Island. Any charges levied through the premise of polluter pays should therefore be sufficient to mitigate potentially detrimental effects and further, enhance the environment of Jersey and the wider Channel Islands.

The following are issues that must be considered before waste imports could be allowed from other Channel Islands to Jersey. It is important to note that this document is an early indication of likely issues for consideration and significant expansion on all topics covered will be required.

Legal Issues

Jersey and Guernsey (including Herm, Alderney and Sark) are bound by the conditions of the Basel Convention (adopted 1989, in force 1992). This requires that in order for waste that is subject to the Convention (including household waste, and incinerated residues of household waste i.e. ash) to be exported from, travel through territorial waters of, and be imported to party jurisdictions, a Bilateral agreement or equivalent must first be made between the competent authorities of those Jurisdictions.

Likely subject areas to be covered by any agreement are –

- the proposed quantity of wastes;
- the composition of waste;
- classification of the waste according to Basel Convention;

- mechanisms of providing evidence of waste types proposed for export;
- regularity of audit checks by both competent authorities and the mechanism for sharing information;
- security (as defined in The Waste Management (Jersey) Law 2005) of loads to prevent escape of wastes;
- the registration of waste carriers involved in the transport of the waste;
- the ability of other jurisdictions to comply with the requirements of the trans-boundary conditions of The Waste Management (Jersey) Law 2005, including financial provision commitments;
- the acceptance criteria for receipt of wastes in Jersey;
- the ability of the Jersey operator to determine feed rates;
- the fate of the separate components of waste ash and ash that can be recovered.

The competent authority in Jersey is the Minister for Planning and Environment. The waste exporter is the notifier for the purposes of trans-boundary waste management law and the notifier must make an approach to the competent authorities of both the exporting jurisdiction and Jersey.

Part 4 of The Waste Management (Jersey) Law 2005 requires that all trans-boundary shipments of waste are notified to the relevant competent authorities and that the competent authorities consent to these movements.

This will be the case for imports of other Channel Island's waste and if any subsequent export of ash is proposed, separate bilateral agreement, notification and consent will be required.

Policy Issues

To answer the question of whether Jersey can import other Channel Island's waste would require a mechanism for assisting in determining political and public acceptability. An assessment of environmental impact of the options, for joint approval by the competent authorities of both jurisdictions, may be a method to allow this, possibly through a Strategic Environmental Assessment process.

The effect on Jersey's carbon emissions figures requires consideration in respect of the basic principle of waste import. By incinerating other Channel Island's waste there will be more emissions of carbon dioxide that will be attributed to Jersey's carbon inventory. These are reported annually to the U.K. Government since it is through the U.K. that Jersey is a signatory to the Kyoto Protocol. This will impact on the Jersey's environmental statistics and make it more difficult to achieve carbon reduction targets in line with Jersey's obligations under the Kyoto Protocol. Jersey's emissions are likely to include those arising from incineration on Jersey regardless of where the waste has arisen.

The effect on Jersey's energy provision and the forthcoming Energy Policy would require consideration, especially in light of P.206/2009 Climate Change: Copenhagen Conference – Petition, recently agreed by the States.

The proximity principle in respect of the European Waste Directive (2006/12/EC), which advocates disposing of waste as close as possible to its source, would need consideration and policy setting. The polluter-pays principle should also be afforded consideration.

Consideration should be given to the potential effect on air quality of the combustion of additional waste, and in particular assessed against the need for and impact on the ability to achieve Waste Incineration Directive (2000/76/EC) compliance and any additional costs that may be incurred due to an increase in tonnage of waste burned.

Jersey is currently undertaking an exercise to look at the environmental (and economic) benefits of removing certain more polluting materials (e.g. batteries, tyres, various Waste Electronic and Electrical Equipment categories etc.) from the waste stream that enters the incinerator. Assurances would need to be received from other jurisdictions that they would pursue parallel waste separation policies at source. If not, any on-costs borne by Jersey relating to the separation, recycling and/or disposal of such materials need to be included within financial reckonings.

The policy on re-export of ash should be reviewed environmentally against the potential for Jersey to dispose of it on Island.

Transportation Issues

Any shipping companies proposed must be able to comply with the requirements of The Waste Management (Jersey) Law 2005 and Regulation (EC) No. 1013/2006 Of The European Parliament And Of The Council on Shipments of Waste, in respect of providing secure haulage.

Waste storage transport containers will be required to be secure.

Identification of where the waste will be delivered to in Jersey will be required and proposals must be put to the Minister for Planning and Environment regarding how the receipt, handling and onward transportation of these wastes will comply with the requirements of The Waste Management (Jersey) Law 2005. Minister for Planning and Environment will have to consent to these proposals.

The delivery of waste to the Island will impact on the existing road network and this should be considered with a traffic impact study.

The need for contingency planning in the event of failure of any part of the disposal mechanism or chain must also be considered.

The impact of adverse weather conditions on the acceptance of waste must be considered.

The reception facility in Jersey will be a waste transfer station and as such will require to be licensed under The Waste Management (Jersey) Law 2005.

Operational Issues

The importation and its associated prior facilitation, transport, delivery, receipt, road haulage and acceptance for disposal must give regard to Best Available Techniques to prevent as far as reasonably practicable any detriment to the environment.

Sites associated with the imports will require to be licensed and regulated under The Waste Management (Jersey) Law 2005 to ensure that adequate regard is given to environmentally sound management, emission control and monitoring.

This will require significant regulator input from an already stretched Regulator, and discussions around appropriate staffing and resourcing will be required. This cannot be managed within existing resources.

Regulation of associated discharge consents under the Water Pollution (Jersey) Law 2000 will be required.

Availability to the public of information pertaining to the imports will be key to establish and maintain trust in the both the operator and the Regulator.

Acceptable Waste types must be defined, agreed, monitored, and regulated.

Projections of likely waste volumes arising should be reviewed in the context of projections of Jersey's waste volumes and set against the capacity of the plant to ensure adequate capacity is available.

The impacts of any changes required to harbour handling facilities and any consequential environmental risks or impacts must be assessed.

Residue Disposal Issues

It will be necessary to explore possibilities in respect of disposal or reuse of bottom ash aggregates.

The legal, practical, and policy issues around disposal of fly ash, Airborne Pollution Control (APC) residues, and boiler ash require very careful consideration specifically between Regulator and Operator but with wider identified stakeholders.