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2021/0367 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056**

(Text with EEA relevance)

{SEC(2021) 402 final} - {SWD(2021) 330 final} - {SWD(2021) 331 final} -  
{SWD(2021) 332 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

In 2018, global trade in waste reached 182 million tonnes with a value of around EUR 80.5 billion<sup>1</sup>. Such trade has increased considerably in the last decades, with a peak of nearly 250 million tonnes in 2011. **The EU is an important player in global trade in waste, and considerable volumes of waste are being shipped between Member States.** In 2020, the EU exported to non-EU countries around 32.7 million tonnes of waste, an increase of 75% since 2004<sup>2</sup>, with a value of EUR 13 billion. Ferrous and non-ferrous metal scrap, paper waste, plastic waste, textile waste and glass waste represent the majority of waste exported from the EU. The EU also imported approximately 16 million tonnes, valued at EUR 13.5 billion. In addition, around 67 million tonnes of waste per year are shipped between Member States<sup>3</sup> (intra-EU shipments of waste).

**Waste shipped across borders can generate risks for human health and the environment, especially when not properly controlled. At the same time, these wastes often have a positive economic value, notably as secondary raw materials that can replace and reduce dependence on primary materials and thereby contribute to a more circular economy.**

Measures on the supervision and control of shipments of waste have been in place in the EU since 1984. In 1989, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) was adopted to address serious problems linked to deposits of toxic wastes imported from abroad to various parts of the developing world. In 1992, the OECD adopted a legally binding Decision<sup>4</sup> on the control of transboundary movements of wastes destined for recovery operations (OECD Decision).

Regulation (EC) No 1013/2006<sup>5</sup> (Waste Shipment Regulation (WSR)) implements in EU law the provisions of both the Basel Convention and the OECD Decision. In certain aspects, the WSR contains stricter control measures than the Basel Convention. The WSR requires Member States to ensure that shipments of waste and their treatment operations are managed in a manner that protects the environment and human health against any adverse effects that might result from such wastes. The WSR sets out control

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<sup>1</sup> Yamaguchi, S (2021, forthcoming), *International trade and circular economy – Policy alignment*, OECD Trade and Environment Working Papers, OECD Publishing, Paris, [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=COM/TAD/ENV/JWPT E\(2020\)2/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=COM/TAD/ENV/JWPT E(2020)2/FINAL&docLanguage=En). - <https://doi.org/10.1787/18166881>.

<sup>2</sup> For more information see, <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210420-1#:~:text=In%202020%2C%20EU%20exports%20of,16.0%20million%20tonnes%20in%202020>.

<sup>3</sup> Source: Comext.

<sup>4</sup> Council Decision C(92)39/FINAL on the control of transboundary movements of wastes destined for recovery operations. This Decision was amended and the current version is Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations (OECD/LEGAL/0266).

<sup>5</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste; OJ L 190, 12.7.2006, p. 1–98

mechanisms for the export and import of waste between the EU and third countries, and for shipments between Member States. The types of controls under the WSR depend on the characteristics of the waste (for example hazardous, non-hazardous), its destination, and its treatment as part of recovery (for example recycling) or disposal (for example landfilling) operations. The WSR also lays down export prohibitions for certain categories of waste and certain destinations: the most important example is the prohibition to export hazardous waste from the EU to non-OECD countries.

The overall objective of the WSR review is to increase the level of protection of the environment and public health from the impacts of unsound transboundary shipments of waste. It addresses the problems identified in the WSR evaluation published by the Commission in January 2020<sup>6</sup> (see more information on this in point 3 below).

**The WSR revision also responds to the call under the European Green Deal<sup>7</sup> and the Circular Economy Action Plan<sup>8</sup> to revise the WSR with the aim of:**

- facilitating shipments of waste for reuse and recycling in the EU;
- ensuring that the EU does not export its waste challenges to third countries; and
- tackling illegal waste shipments.

Moreover, the European Green Deal and the Industrial Strategy<sup>9</sup>, including its update<sup>10</sup> acknowledged that access to raw materials is of strategic importance and a pre-requisite for Europe to deliver on its green and digital transition. The Critical Raw Materials Action Plan<sup>11</sup> stressed that significant amounts of resources leave Europe in the form of wastes, instead of being recycled into secondary raw materials and thus contributing to the diversification of sources of supply for the industrial ecosystems in the EU.

The European Parliament and the Council have also invited the Commission to come forward with an ambitious revision of the WSR<sup>12</sup>.

- **Consistency with existing policy provisions in the policy area**

There are synergies between the WSR and other pieces of EU waste legislation, especially the Waste Framework Directive<sup>13</sup> and directives covering specific waste streams. The Directive on the end-of-life vehicles<sup>14</sup>, the Batteries Directive<sup>15</sup>, the

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<sup>6</sup> SWD(2020) 26 final

<sup>7</sup> COM(2019) 640 final

<sup>8</sup> COM(2020) 98 final

<sup>9</sup> COM/2020/102 final

<sup>10</sup> COM(2021) 350 final

<sup>11</sup> COM/2020/474 final

<sup>12</sup> See [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html) and <https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf>.

<sup>13</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJL 312, 22.11.2008, p. 3).

<sup>14</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJL 269, 21.10.2000, p. 34–43)

<sup>15</sup> Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJL 266, 26.9.2006, p. 1–14)

Packaging and Packaging Waste Directive<sup>16</sup> and the WEEE Directive<sup>17</sup> all contain specific provisions on transboundary movement of the specified waste streams that refer to the WSR.

- **Consistency with other Union policies**

There are also synergies between the WSR and other EU legislation that is relevant for waste shipments, especially the Environmental Crime Directive<sup>18</sup>. This Directive covers the penalisation of criminal waste shipments and complements the WSR's enforcement provisions.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The existing legal basis of the Waste Shipment Regulation is Article 192 of the Treaty on the Functioning of the European Union, which stipulates how Article 191 of the Treaty should be implemented. Article 191 addresses EU policy on the environment, which must contribute to pursuing the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- utilising natural resources prudently and rationally; and
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular to combat climate change.

- **Subsidiarity**

The WSR ensures that the EU's comprehensive waste legislation is not circumvented by shipping waste to third countries where waste management standards and performance greatly differ from those in the EU. It is important that common rules on the control of transboundary movements of waste are laid down at EU level, to avoid a situation where illegal operators would choose to ship their waste through Member States with less strict domestic rules than others, to export this waste from the EU (port-hopping scenario). EU rules are also justified for intra-EU shipments of waste because the EU waste industry is highly integrated and to ensure equal treatment and legal clarity for all economic actors in this sector.

- **Proportionality**

The WSR ensures consistency in the implementation by each Member State of the Basel Convention and the OECD Decision and as a result avoid obstacles to the shipments of waste within the EU or impediments to the good functioning of the EU internal market. In addition, the EU approach to waste shipment is stricter than the Basel Convention

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<sup>16</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (*OJ L 365, 31.12.1994, p. 10–23*)

<sup>17</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (*OJ L 197, 24.7.2012, p. 38–71*)

<sup>18</sup> Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (*OJ L 328, 6.12.2008, p. 28–37*)

when it comes to export of waste, as it prohibits the export of waste for disposal outside EFTA countries, and the export of some non-hazardous waste<sup>19</sup> outside the OECD. The EU approach has a clear environmental added value compared with each Member State individually relying on the Basel Convention. Indeed, the EU is one of the only parties to the Basel Convention to apply such strict rules.

- **Choice of the instrument**

In 1984, Council Directive 84/631/EEC of 6 December 1984<sup>20</sup> was adopted, introducing EU-wide measures on the supervision and control of shipments of waste. The Directive covered shipments of hazardous waste. It required a prior informed consent procedure for the countries concerned, thereby allowing them to object to a specific shipment.

Directive 84/631/EEC was amended by Council Directive 86/279/EEC of 12 June 1986, which introduced additional provisions in order to improve the monitoring of exports of waste from the Community. Following international developments in the context of the Basel Convention and the OECD, the first Waste Shipment Regulation (Council Regulation (EEC) No 259/93, repealing Directive 84/631/EEC) was adopted in 1993.

It is important to note that a regulation — rather than a directive — was deemed necessary at that time in order to ensure simultaneous and harmonised application in all Member States. The choice of a regulation remains justified as it sets direct requirements for all operators, thus providing the necessary legal certainty and enforcement possibility of a fully integrated market across the EU. A regulation also ensures that the obligations are implemented at the same time and in the same way in all 27 Member States.

### **3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- ***Ex post* evaluations/fitness checks of existing legislation**

The Waste Shipment Regulation has been evaluated under five criteria, namely its effectiveness, efficiency, relevance, coherence and EU added value. Commission Regulation (EC) No 1418/2007, adopted under Article 37(1) of the WSR, was also taken into consideration.

The main findings of the evaluation are the following.

- The WSR has established a robust legal framework that has been implemented by Member States. The WSR has generally been effective in delivering its two main objectives: to protect the environment and human health from adverse effects of waste shipments; and to implement the EU's international commitments in this area. It has led to a better control of waste shipments and contributed to the environmentally sound management of shipped wastes at national and EU levels.
- At the same time, different levels and ways of applying and enforcing the WSR, often combined with different interpretations of its provisions and

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<sup>19</sup> The 'other waste' listed in Annex II to the Basel Convention.

<sup>20</sup> Council Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste; *OJ L 326, 13.12.1984, p. 31–41.*

various inspection regimes, have hampered its optimal implementation throughout the EU. These factors limit or discourage legal shipments of good quality waste materials to recycling facilities, which are important for the transition to a circular economy in the EU.

- When it comes to the export of wastes, especially non-hazardous wastes, from the EU, a major shortcoming is the insufficient supervision of the conditions under which these wastes are managed in destination countries, especially in developing countries. As a result, the export of some waste from the EU has created environmental and public health challenges in the countries of destination. It also represents a loss of resources for EU recycling industries.
- Illegal shipments of waste within and from and to the EU also remain a considerable problem due to the general nature of the WSR provisions. This relates in particular to the elements that need to be checked by the competent authorities, for example on the environmentally sound management of waste and on enforcement. However, it is also due to shortcomings in the implementation and enforcement of the WSR.

These findings have been instrumental in defining the objectives pursued by the revision of the WSR.

#### • **STAKEHOLDER CONSULTATIONS**

Stakeholders were consulted throughout the evaluation and impact assessment processes, which served to prepare the WSR revision. An open public consultation and a workshop were organised in 2018 to prepare for the evaluation. An inception impact assessment was then published on 11 March 2020 for public feedback, which was followed by an open public consultation until 30 July 2020 and a workshop on 23-24 September 2020. In addition, as part of the impact assessment process, several targeted consultations took place with a large number of stakeholders. More information on this consultation process can be found in Annexes 2 and 3 of the impact assessment report.

Stakeholders and Member States generally agreed with the main findings of the WSR evaluation and with the need to revise the WSR to address these findings.

**On the issue of intra-EU shipments of waste**, economic operators expressed strong support for a modernisation of the procedures applicable to shipments of waste and for the adoption of EU measures to avoid a fragmentation of the EU internal market. They particularly called for a digitalisation of the notification procedure, a better functioning of the fast-track procedures, the setting of common rules to decide on the classification of waste, and better standardisation of the calculation of financial guarantees. Civil society voices stressed the need for a better alignment of the WSR with the proximity principle and the waste hierarchy. On the other hand, some economic operators indicated that the WSR should not lay down substantial provisions (which are laid down in other legislation) but be limited to procedural requirements for the shipment of waste.

**As to the export of waste from the EU**, stakeholders generally acknowledged that the WSR should be amended to avoid situations where waste exported from the EU is mismanaged in the countries of destination. Different views were expressed as to the possible solutions to address this problem. Some stakeholders expressed concerns on

measures that would lead to possible disruptions in global trade in high-quality waste and on the impact of such measures on the EU sector currently involved in the collection, sorting and recycling of waste. They notably highlighted that there might not be enough capacity in the EU to deal with waste that is currently exported from the EU. This view was not shared by some other economic operators, who indicated that such capacity would be available. Civil society insisted on the need for the EU to set up very restrictive measures on the export of plastic waste from the EU.

Stakeholders generally expressed support for **reinforcing the provisions against illegal shipments of waste**.

The Commission proposal takes account of the views expressed and presents a proportionate approach to deal with the problems identified in the evaluation. This is particularly the case for the measures relating to export of waste, which do not amount to a blanket ban on export and which will only apply 3 years after the entry into force of the proposed regulation. All stakeholders and third countries, therefore, will have sufficient time to prepare for the implementation of the new rules.

- **Collection and use of expertise**

The impact assessment for the review of the Waste Shipment Regulation was supported by a study by external experts. These experts worked closely with the Commission through the different phases of the study. The Commission also used numerous other sources of information to prepare this proposal.

- **Impact assessment**

The proposal is based on an impact assessment. After having addressed the Regulatory Scrutiny Board's comments in its negative opinion of 9 April 2021, a revised impact assessment received a positive opinion on 4 June 2021. In its final opinion, the Board asked for further details, mainly on the comparison of options addressed in the impact assessment.

This impact assessment considered four policy options.

**Policy option 1** is the baseline scenario. This assumes that the Basel Convention and the OECD Decision will remain largely unchanged until at least 2030. In addition, the current WSR, including its delegated Regulation, will continue to be applicable. Its current implementation will continue and harmonisation across Member States would be further pursued through existing efforts, notably the development of guidance and ad hoc exchanges between Member States, mostly via the Waste Shipment Correspondents<sup>21</sup>. The EU will also continue to promote global measures to improve the control of transboundary movements of waste and waste management in international organisations, especially the Basel Convention and the OECD.

The table below provides an overview of options 2, 3 and 4, which are alternatives to option 1 (baseline scenario), and the combination of measures in these options.

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<sup>21</sup> Representatives designated by the Member States and the Commission pursuant to Article 54 of the WSR.

Measures	Option 2 (targeted changes)	Option 3 (structural changes)	Option 4 (far-reaching changes)
<b>Objective 1: Facilitate shipments within the EU, in particular to align the WSR with circular economy objectives</b>			
1a) Improve the regime of “pre-consented” facilities	X		X
1b) Streamline the notification procedure	X		X
1c) Clarify the scope of the WSR	X		X
1d) Set up a mandatory EU-wide electronic data interchange (EDI)		X	X
1e) Streamline the financial guarantee system by harmonising the calculation of the amount required under the guarantee		X	X
1f) Ensure mutual recognition at EU level of carriers of hazardous waste registered in one Member State		X	
1g) Align the WSR provisions with the waste hierarchy	X		X
1h) Issue guidance on current problematic issues	X		
1i) Ensure alignment with the provisions on end-of-waste and byproducts in the Waste Framework Directive	X		X
1j) Task the Commission, through delegated or implementing acts, to set thresholds for contamination of wastes to determine if they should be subject to the notification procedure or not		X	X
1k) Establish mutual recognition of national end-of-waste criteria for the purpose of waste shipments		X	
1l) Establish mutual recognition of national decisions in relation to the hazardous nature of wastes for the purpose of waste shipments		X	



<b>Objective 2: Guarantee that waste exported from the EU is managed in an environmentally sound manner</b>			
2a) Specify obligations for exporters and public authorities to ensure and verify that waste exported to third countries is managed in an environmentally sound manner	x		x
2b) Task the Commission to set out criteria to differentiate between used goods and waste, for specific waste streams for which export to third countries raises particular challenges	x		x
2c) Establish a new framework in which non-OECD countries have to notify the EU of their willingness to import green-listed waste and demonstrate their ability to treat it sustainably according to set criteria		x	x
2d) Require that the export of green-listed waste from the OECD is subject to the notification procedure		x	
2e) Set up a specific procedure to monitor export of waste to OECD countries and mitigate environmental problems that might be caused by such exports		x	x
<b>Objective 3: Better address illegal shipments of waste within and from and to the EU</b>			
3a) Improve provisions on inspections and enforcement and the follow-up	x		x
3b) Issue guidance on efficient inspections and enforcement practices	x		
3c) Empower the Commission (through OLAF) to carry out transnational investigative and coordinating actions against waste trafficking in the EU	x		x
3d) Reinforce existing provisions on infringements and penalties	x		x

3e) Improve traceability of shipments of green-listed waste		X	X
3f) Facilitate cooperation between enforcement authorities at the national level	X		X
3g) Create a dedicated group at EU level with the task to facilitate and improve cooperation on enforcement of the WSR		X	X

**Policy option 2 (targeted changes)** provides a package of measures that can effectively and, to an extent, efficiently address some of the problems that hamper the good functioning of the WSR.

Compared with the baseline, the targeted changes provide effective and consistent responses to achieve specific objectives, in particular to reduce administrative burden and to raise waste shipment for treatment higher up in the waste hierarchy. However, the envisaged measures alone would not be able to deliver maximum benefits, mostly due to the lower efficiency and lower internal coherence. Compared with the structural changes (option 3), this option will address only partly the challenges linked to the export of waste (objective 2). The measures only target certain problem areas, e.g. by setting out criteria to differentiate between used goods and waste (2b) or by specifying the obligations for exporters (2a). The greatest benefits under this option are identified for the measures 3a-3d and 3f, dedicated to better addressing illegal shipments of waste within and from and to the EU (objective 3).

Under **policy option 3 (structural changes)**, measures 1d, 1e, and 1f directly address stakeholder concerns regarding the costs associated with the delays of intra-EU shipments and would significantly minimise administrative burden for public authorities and economic operators (objective 1). The introduction of measures 2c, 2d and 2e would set up a procedural framework at EU level to guarantee that waste exported from the EU is managed in an environmentally sound manner. It is considered as a proportionate and systemic response to objective 2. Certain changes would not be sufficient and coherent enough to achieve the necessary effect at Member State level. This is in particular the case for the proposed measures 3e and 3g to better address illegal shipments of waste (objective 3).

The impact assessment has shown that actions taken under options 2 or 3 would not allow to meet all the objectives of the review in the most effective, efficient and proportionate manner. Compared with these options, **policy option 4**, which combines measures in a mix of **far-reaching changes**, would result in greater effectiveness, in an efficient and proportionate manner.

**The preferred option is therefore option 4.** The blend of the targeted and structural changes chosen would result in a balanced approach in terms of effectiveness (achievement of the objectives) and efficiency (cost-effectiveness). It aims to ensure that this Regulation can facilitate intra-EU shipments in line with the circular economy objectives, support the EU's objective to stop exporting its waste challenges to third countries, and contribute to better addressing illegal shipments of waste, without risking excessive costs or disruption. It responds to both (i) the need for new, effective measures

to achieve the three objectives, and (ii) the importance attached to them being implementable while not creating excessive burden or undesirable impacts.

Option 4 is also proportionate to the aims that this review seeks to achieve.

- With respect to objective 1 on intra-EU shipments of waste, all measures under option 4 are necessary to achieve a better integration of the EU internal market for waste, guiding these shipments to recycling. They will represent important changes for the procedures currently applicable to shipments, which will have an effect both on economic operators and on public administrations. These measures will generate important gains for both of them, through reduced administrative burden, reduced delays, and more efficient processing of information. They will also contribute to supporting the transition to a circular economy in the EU, therefore benefiting the protection of the environment. These gains will largely outweigh the costs linked to the establishment of the new measures, notably the electronic data interchange regime (measure 1d)<sup>22</sup>. The obligation to digitalise the notification procedure for intra-EU shipments of waste via the electronic data interchange system will only become effective 24 months after the entry into force of the revised WSR, and preparatory work with Member States and stakeholders is already ongoing to get ready for this new regime.
- With respect to the second objective, option 4 will lead to important changes in EU approaches and the regulatory framework applying to the export of waste from the EU. This is needed in view of the failure of the current WSR to achieve the objective to ensure environmentally sound management of waste exported from the EU, especially to developing countries. One important feature of option 4 is that it will require both economic operators and public authorities to take concrete actions to verify that waste exported from the EU is treated in a sustainable manner in the countries of destination. This will ensure that guarantees are provided both at country (measures 2c and 2e) and facility (measure 2a) level on the sustainable treatment of waste in the countries of destination. These measures should generate important environmental benefits. They will also have economic impacts. For some operators, notably those processing waste into secondary materials in the EU, this would potentially lead to higher quantities of feedstock available at a lower price, so this would have a positive impact overall. For those operators shipping waste from the EU, the impact will depend on whether evidence is made available that the exported waste in the destination countries is treated in an environmentally sound manner. It is likely that, as a result, the export to some countries might become more difficult, which would have a negative impact on the companies exporting waste to these countries. The costs resulting from this situation are however limited and are outweighed by the overall environmental benefits of the measures. Finally, it is also important to note that proportionality is ensured through the fact that the measures in option 4 would:

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<sup>22</sup> In line with the principles laid down in the European Interoperability Framework (COM(2017)134). IT development and procurement choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

- apply a different regime between countries of destination, with more scrutiny over countries where the waste management practices are deemed to be less sustainable than in the EU (non-OECD countries);
  - set up a mechanism, without any blanket ban, where importing countries have the opportunity to import waste from the EU if they demonstrate they are able to deal with the waste in a sustainable manner; and
  - enter into force only 3 years after the changes in the Regulation become effective, leaving a period of transition for all involved to get prepared for the new rules.
- As to the third objective, option 4 provides a series of measures to improve enforcement of the WSR. They are needed to increase the capabilities of Member States and the Commission to reduce illegal shipments of waste. These measures do not involve any fundamentally new tasks or additional related costs for operators and Member States. A more effective enforcement regime would help to prevent or reduce the volume of illegal shipments and to deliver significant cost savings for clean-up and repatriation, and indirect cost savings for Member States where waste transits. Better enforcement should also lead to a reduced loss of tax revenues. Furthermore, beyond the proposed measures, the Commission will use a wide array of tools to continue to support Member State efforts to better implement and enforce the WSR. Many initiatives have already been taken at EU level against waste trafficking, which is one of the priorities of the EU’s overall policy on organised crime<sup>23</sup>. The EU is also providing financial support to operational projects targeting waste trafficking<sup>24</sup>. In addition, the Commission is assisting Member States in this area through the Environmental Compliance and Governance Forum<sup>25</sup>, the TAIEX-EIR PEER 2 PEER programme<sup>26</sup> and the EU Environmental Law Training Package<sup>27</sup>.

Figure 1 below provides a schematic overview of the preferred option, and the measures that it contains. A more detailed description of how the preferred option achieves the objectives of the WSR review is presented in Annex 14 of the impact assessment report.

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<sup>23</sup> <https://data.consilium.europa.eu/doc/document/ST-9450-2017-INIT/en/pdf>  
<sup>24</sup> For example, <https://www.wasteforceproject.eu/>, <http://www.lifsmartwaste.com/>,  
<https://opfawaste-project.eu/> or <https://www.sweap.eu/>.  
<sup>25</sup> [https://ec.europa.eu/environment/legal/compliance\\_en.htm](https://ec.europa.eu/environment/legal/compliance_en.htm)  
<sup>26</sup> [https://ec.europa.eu/environment/eir/p2p/index\\_en.htm](https://ec.europa.eu/environment/eir/p2p/index_en.htm)  
<sup>27</sup> [https://ec.europa.eu/environment/legal/law/training\\_package.htm](https://ec.europa.eu/environment/legal/law/training_package.htm)

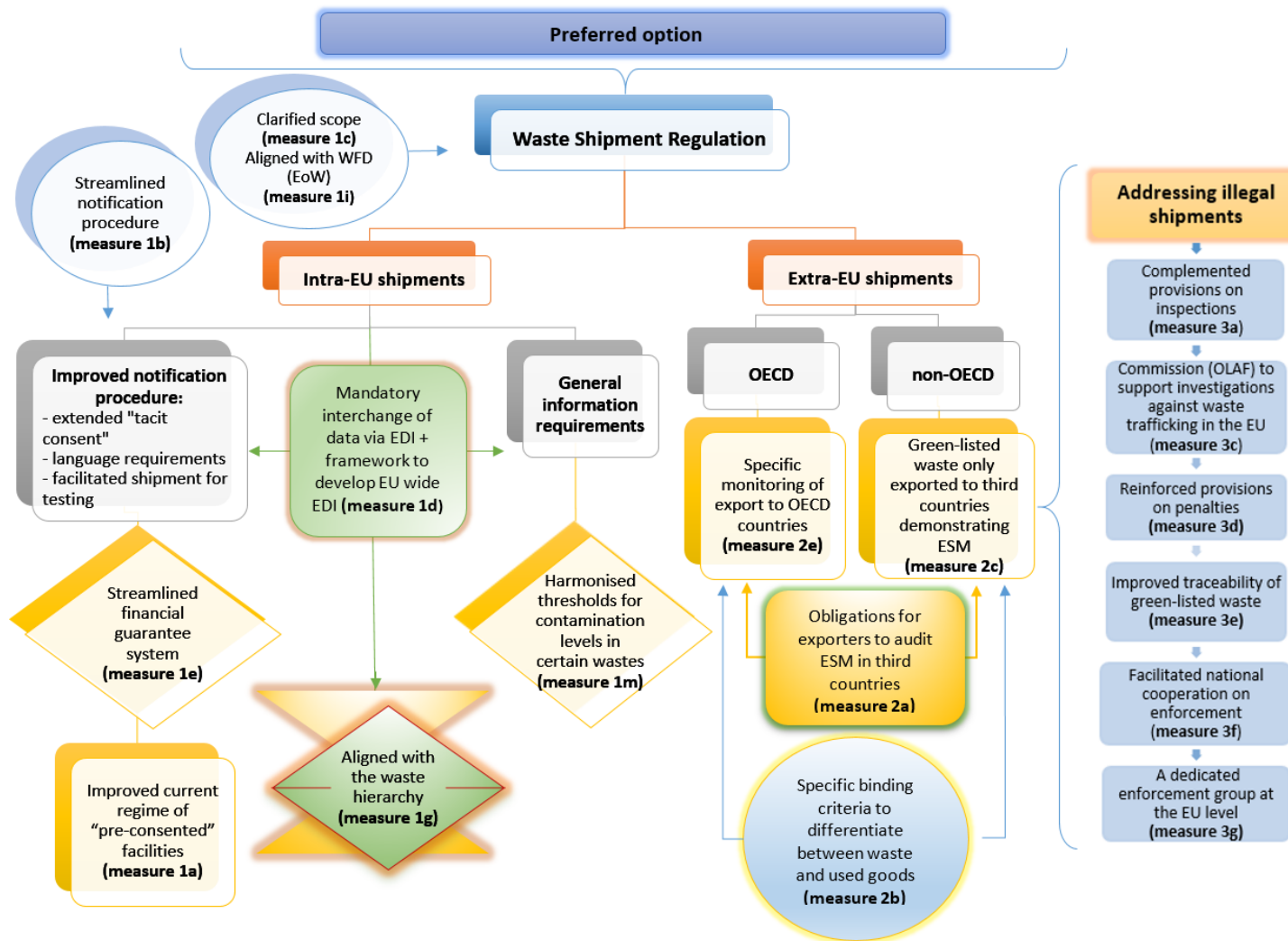


Figure 1 – Overview of measures in the preferred option

In terms of **overall economic impact**, this preferred option should result in significant savings for operators shipping waste and for authorities dealing with the procedures for authorising and monitoring these shipments, notably thanks to the establishment of the electronic data interchange system. This is expected to deliver savings in the order of EUR 1.4 million a year. Other measures to modernise and simplify the WSR will bring additional savings. The other important economic impacts will come from the measures linked to the export of waste, which should represent an overall economic gain for the EU economy, based on 2019 data, ranging from EUR 200-500 million a year, depending on the amount of waste that is retained in the EU. For economic operators based in the EU, the impacts of these measures will differ significantly depending on their position in the value chain and the types of waste concerned. Some of those involved in exporting these wastes are likely to see the costs for exporting such waste increasing, or they would turn to other purchasers in the EU, where they might get lower prices for their waste. Companies exporting waste would also have to set up (or purchase) auditing schemes to verify that facilities in third countries perform waste management activities in a sustainable manner; this would represent new but moderate costs. On the other hand, economic operators recycling or processing waste in the EU may be able to use more waste as feedstock, which they should be able to purchase at a lower price compared with the baseline. The measures on illegal shipments should benefit legal operators as they will help to tackle illegal activities; these represent a direct competition to the business of legal operators. For companies located in third countries which transport and process waste imported from the EU, the effect would be positive for those performing their activities in an environmentally sound manner, as the audit would consolidate their activities and competitiveness, even though it could also incur some costs for upgrading their infrastructure and standards in the short term. The impact would be negative for those companies which are not able to comply with the criteria for environmentally sound management of waste laid out in the auditing schemes as they would lose customers from the EU.

SMEs will benefit greatly from the measures designed to facilitate shipments of waste within the EU. The obstacles and burdens linked to the shortcomings of current procedures represent proportionally a heavier burden for them than for larger companies. The measures on the export of waste will affect SMEs involved in export-related business activities. They will incur new costs to perform audits in facilities to which they are shipping their waste. These costs, however, remain limited and could be pooled with other SMEs, notably through Producer Responsibility Organisations<sup>28</sup>. Finally, the perspective that more waste will remain in the EU, together with new targets and obligations under EU law to ensure its recycling, will also represent opportunities for SMEs to develop innovative projects and technologies for recycling waste whose treatment poses particular challenges, such as plastic and textile waste.

This preferred option is expected to result in an **overall significant positive environmental impact**. The measures designed to facilitate the shipment of waste for re-use and recycling in the EU will lead to higher amount of waste treated in better environmental conditions. They would also lead to higher amounts of secondary materials available in the EU, which would replace virgin materials as feedstock for a number of industries based in the EU. The proposed measures relating to the export of waste would have positive environmental impacts as they would better guarantee that shipments of waste to third countries are managed in an

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<sup>28</sup> Producer Responsibility Organisation is understood as a collective entity set up by producers or through legislation, which becomes responsible for meeting the recovery and recycling obligations of the individual producers.

environmentally sound manner. It would also potentially lead to between 2.4 and 6 million tonnes of waste being retained in the EU each year, which would be treated according to EU standards and processed into secondary materials. While it is not possible to perform a monetised impact of all these environmental gains, the benefits linked to a better treatment of residual waste in the EU and to avoiding shipping this waste to third countries would range from EUR 266-666 million a year. The overall gains are likely to be even higher. By contributing to improving the overall effectiveness and efficiency of the enforcement regime, the measures relating to illegal shipments would help prevent and reduce the serious environmental impacts stemming from illegal waste shipments, bringing overall environmental benefits.

Finally, as regards the **overall social impact**, the measures linked to the export of waste, and to those against illegal shipments of waste, should reduce the negative impact on human health (e.g. respiratory problems, injuries) and labour conditions (e.g. no social benefits, low wages) stemming from the unsustainable management of waste, bringing overall benefits to society both abroad and in the EU. The treatment in the EU of waste that used to be exported should lead to the creation of 9 000-23 000 jobs in EU recycling and re-use sectors. Additional jobs in these areas are likely to be generated as a result of the measures designed to ensure a better functioning of the WSR for shipments of waste in the EU for recycling and re-use. In third countries there might be job losses in the formal or informal waste treatment sectors in case less waste is exported to that country.

- **Regulatory fitness and simplification**

This proposal makes maximum use of the potential of **digitalisation** to reduce administrative costs. This is the case especially for the proposal to set up a mandatory EU-wide system to issue and interchange electronically data and information linked to waste shipments. The development of such a system that combines existing national platforms and/or platforms in place, like the environment established under Regulation (EU) No 2020/1056 on electronic freight transport information with a system at EU level is not expected to entail very high costs for the Commission, Member States or businesses. It will, however, provide Member State authorities and the Commission with **a powerful tool for monitoring and enforcing**, as well as an efficient tool for businesses to comply with **the obligations** in the proposed regulation.

- **Fundamental rights**

The proposal does not have consequences for the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

The proposal implies the use of human resources and expenditure to ensure the proper implementation of some its provisions. Some of the human resource needs are expected to be sourced from the Commission's existing allocations. The required Commission human resources will be DG ENV staff already assigned to management of the action. Redeployment within the DG, or from other DGs that are able to free themselves from current tasks related to implementation of the Regulation in force, could also contribute to managing the action. An additional allocation would have to be granted to the managing DG and to the European

Anti-Fraud Office (OLAF) under the annual allocation procedure and subject to budgetary constraints.

The proposal includes several articles that detail further work streams that will need to be carried out to implement the Regulation and that would need to be adopted through implementing/ or delegated acts in the years following entry into force. These will cover the development of harmonised rules on classification of waste, on calculation of financial guarantees, the assessment of third countries' notifications to receive EU waste exports, and coordination work as regards the enforcement of the Regulation. A detailed list of these envisaged actions is provided below.

- Establishment of a harmonised calculation method for financial guarantees or equivalent insurance;
- Examine and establish harmonised contamination threshold levels to classify certain wastes as green-listed or not.
- Examine and establish criteria to distinguish between used goods and waste for certain objects or substances;
- Establish and maintain a new framework for the export of green-listed waste from the EU to a non-OECD country, especially the establishment and updating of a list of countries to which the export of such waste is authorised.
- Monitor the export of waste to OECD countries and mitigate environmental problems that might be caused by such exports.
- Organise and facilitate the work of a dedicated group at EU level with the task to facilitate and improve cooperation on enforcement of the WSR ('waste enforcement group').

The Commission through OLAF will play a specific role in complementing the work of Member States in enforcing the provisions of this Regulation in complex cross-border cases and would engage in:

- conducting inspection of premises/boats/shipments of economic operators;
- collection of information/intelligence from a wide range of sources;
- analytical work (use of customs and specialised databases and dedicated tools);
- forensics acquisition;
- coordination with law enforcement agencies, market surveillance authorities and judicial authorities;
- cooperation with third countries (through mutual assistance agreements or administrative cooperation agreements); and
- cooperation with other EU agencies (EPPO, Europol, Eurojust, Frontex...)

For the development of the central system for electronic information exchange on waste shipments, work has been carried out internally in DG ENV, but will need to be extended in



relation to development and maintenance of a central system for data exchange for waste shipment purposes. The existing IMSOC<sup>29</sup> platform will be used as a basis.

The European Commission will be responsible for general implementation of this Regulation and the adoption of all implementing and delegated acts envisaged by the Regulation. This will require the normal decision-making processes including stakeholder consultation and committee procedures. The current financial estimates are based on:

- For ENV: 1 extra FTE AD post supported by 1.5 FTE contractual agents, as well as operational costs (e.g. study, external consultancy, meetings,...), envisaged for general implementation of the Regulation and the necessary preparatory work and drafting of secondary legislation in line with the deadlines proposed in the Waste Shipment Regulation. This amounts to a total cost of EUR 4 137 000 for the period 2024–2027, based on the latest update of the cost of Commission staff as reported on the DG BUDG website: [https://myintracomm.ec.europa.eu/budgweb/en/pre/legalbasis/Pages/pre-040-020\\_preparation.aspx](https://myintracomm.ec.europa.eu/budgweb/en/pre/legalbasis/Pages/pre-040-020_preparation.aspx).
- For OLAF: 1 extra FTE AD post, envisaged for the implementation of the relevant enforcement-related provisions in the Regulation. This amounts to a total cost of EUR 456 000 for the period 2024–2026, based on the latest update of the cost of Commission staff as reported on the DG BUDG website: [https://myintracomm.ec.europa.eu/budgweb/en/pre/legalbasis/Pages/pre-040-020\\_preparation.aspx](https://myintracomm.ec.europa.eu/budgweb/en/pre/legalbasis/Pages/pre-040-020_preparation.aspx).

The budget of the proposal is presented in current prices.

The legislative financial statement attached to this proposal sets out the budgetary, human and administrative resource implications.

## 5. OTHER ELEMENTS

### • **Implementation plans and monitoring, evaluation and reporting arrangements**

The new Regulation should result in an increase in waste materials reused and recycled in the EU, an improvement in standards and practices for waste management in countries importing waste from the EU and a reduction of illegal waste shipments both within the EU and between third countries and the EU. It should also contribute to building robust and dynamic markets for secondary materials and increasing the transition to a circular economy in the EU and third countries.

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<sup>29</sup> Integrated Management System for Official Controls (IMSOC): this system integrates existing (and future) computer systems, e.g. TRACES, RASFF and Europhyt to ensure optimal use of data, reduce burdens on businesses and national enforcers and accelerate the exchange of information between Member States. This system was originally established by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation); OJ L 95, 7.4.2017, p. 1–142

In terms of monitoring, potential problems with compliance and enforcement would be monitored through the Member States' regular implementation reports and progress reports drawn up by the Commission based on these Member States' reports.

In this respect, it is noted that a key measure to improve the efficiency of the implementation of this Regulation is the establishment of an EU wide system to interchange documents and information electronically (electronic data interchange or "EDI"). This should allow for all involved actors to have better access to many data that are of relevance for the implementation of Regulation. Notably competent authorities will have a much more comprehensive and consistent data set to monitor waste streams, both within and from and to the EU, and also monitoring of waste flows within, and to and from the EU will improve. The EDI system should ensure that structured data are interchanged, which means extractions can be consistently done by Member State competent authorities and the Commission. This should improve the quality of reporting considerably and hence allow to better monitor how successfully the Regulation is being implemented.

Furthermore, the new provision concerning the review of Member States' inspection plans by the Commission would also be an important source of information for monitoring the implementation and enforcement of the Regulation.

Additionally, compliance and enforcement issues would be monitored and discussed in the context of the new Waste Shipment Enforcement Group, which could also identify further actions and measures to be undertaken at the EU level to increase the effectiveness of the Regulation in the future.

Finally, the Regulation would be reviewed within 10 years of its entry into force to ensure that its objectives are being met and that its provisions remain justified.

- **Detailed explanation of the specific provisions of the proposal**

**Title I** contains general provisions on the purpose, scope and definitions of this Regulation.

**Article 1** lays down the subject matter of the Regulation, which is to lay down measures to protect the environment and human health by preventing or reducing the adverse impacts that may result from the shipment of waste.

**Article 2** outlines the scope of this Regulation.

**Article 3** contains definitions.

**Title II** contains provisions on shipments within the Union, with or without transit through third countries.

**Article 4** outlines the overall procedural framework applying to shipments of waste within the Union.

**Chapter 1** of this Title contains the provisions applying to the prior written notification and consent procedure.

**Article 5** establishes the duty for a notifier to submit a notification request when planning to ship wastes under Article 4(1) and (2).

**Article 6** stipulates the requirements relating to the contract that needs to be included in the notification request.

**Article 7** stipulates the requirement relating to the financial guarantee that must be in place for notified shipments of waste.

**Article 8** outlines the procedural steps and deadlines for requesting and submitting additional information to complete a notification request.

**Article 9** outlines the procedural steps and deadlines for competent authorities to take a decision on whether to consent or object to planned shipments, as requested in the notification.

**Article 10** provides for competent authorities concerned to lay down conditions to a consented shipment.

**Article 11** provides that shipments of waste for disposal are prohibited, except if certain conditions are met, in which case shipments of waste can be approved.

**Article 12** provides for the grounds on which a competent authority can object to a shipment of waste for recovery.

**Article 13** provides for the possibility to issue general notifications in the case of multiple shipments of the same waste to the same treatment facility.

**Article 14** contains provisions on the conditions for waste recovery facilities to be pre-consented in Member States, on the mutual recognition by Member States of such facilities and on the specific “fast-track” procedure for shipment of certain waste to such facilities.

**Article 15** contains additional provisions relating to shipments to interim waste treatment operations.

**Article 16** contains requirements following consent of shipments.

**Article 17** contains provisions on changes in the shipment after consent.

**Chapter 2** of this Title consists of **Article 18**, which provides for the general information requirements for shipments of green-listed waste.

**Chapter 3** of this Title contains general requirements.

**Article 19** prohibits the mixing of waste during shipment.

**Article 20** contains provisions on the keeping of documents and information.

**Article 21** contains provisions on public access to notifications.

**Chapter 4** of this Title contains take-back obligations and consists of **Articles 22 to 25**, which provide for the take-back of shipments and the bearing of costs of such take-backs.

**Chapter 5** of this Title contains general administrative provisions.

**Article 26** provides that the issuance and exchange of information and documents required under this Regulation is to be made by electronic means, and sets the conditions under which systems for such exchange have to operate.

**Article 27** provides for the languages in which documents and communications must be issued in the context of this Regulation.

**Article 28** provides for the applicable procedural requirements to be followed in the case of disagreement on the classification of a waste or material shipped. It further provides for the empowerment of the Commission to adopt

implementing measures to clarify the classification of certain wastes and the distinction between used goods and waste for certain commodities.

**Article 29** sets out the costs that may be charged to notifiers.

**Article 30** provides for the possibilities of border-area agreements in exceptional cases.

**Chapter 6** of this Title contains provisions on shipments within the Union with transit via third countries.

**Article 31** provides for specific delays for the competent authority of third countries concerned to give its written consent in cases of shipments for disposal within the Union with transit through these third countries.

**Article 32** provides for specific delays for the competent authority of third countries concerned to give its written consent in cases of shipments for recovery within the Union with transit through these third countries.

**Title III** consists of one article (**Article 33**) and relates to the need for Member States to have national regimes concerning shipments of waste within one Member State to safeguard coherence with the Union system.

**Title IV** contains provisions on exports from the Union to third countries.

**Chapter 1** of this Title contains provisions on the export of waste from the Union for disposal.

**Article 34** provides for an export prohibition except to EFTA countries.

**Article 35** provides for the procedural requirements when exporting to EFTA countries. This Article refers *mutatis mutandis* to Title II and provides for relevant adaptations and additions to the provisions there. Procedural provisions in Chapter 2 of this Title IV refer back to this article.

**Chapter 2** of this Title contains provisions on the export of waste from the Union for recovery.

**Section 1** contains provisions for exports of hazardous and other certain wastes to non-OECD countries, with **Article 36** providing for an export prohibition of hazardous and other waste to non-OECD countries from the EU.

**Section 2** contains provisions for exports of non-hazardous wastes to non-OECD countries with **Articles 37-40** providing for an export prohibition of non-hazardous waste to non-OECD countries except in the case where a non-OECD country notifies its willingness to import and demonstrates its ability to manage certain waste in an environmentally sound manner. These Articles further contain the procedure for third countries to notify their willingness and ability to receive and manage waste, and the empowerment for the Commission to assess these notifications and publish a list of countries that are eligible for receiving exports of certain green-listed wastes from the Union.

**Section 3** contains provisions for exports to OECD countries.

**Article 41** containing the procedural requirements for exports for recovery to OECD countries outside the Union. This Article refers *mutatis mutandis* to Title II and refers to Article 35, and provides for relevant adaptations and additions to the provisions there.

**Article 42** provides for the monitoring of export to OECD countries and a safeguard procedure in case the exports of waste to such countries lead to a situation where such waste are not managed in an environmentally sound manner. This Article provides for the Commission to be empowered to take action where necessary in case where the waste is not managed in an environmentally sound manner.

**Chapter 3** of this Title contains additional obligations applying to the export of waste.

**Article 43** contains obligations for exporters to ensure the waste they export is managed at destination in an environmentally sound manner.

**Article 44** contains obligations for exporting Member States to take necessary measures to ensure that the provisions in this Title are properly implemented.

**Chapter 4** of this Title contains general provisions.

**Article 45** prohibits the exports of waste to the Antarctic.

**Article 46** provides that exports to overseas countries or territories for disposal and of hazardous waste for recovery are prohibited and that for other exports for recovery Title II applies *mutatis mutandis*.

**Title V** contains provisions on imports into the Union from third countries.

**Chapter 1** of this Title contains provisions on the import of waste into the Union for disposal.

**Article 47** prohibits imports except from a country Party to the Basel Convention or with an agreement in place or from other areas during situations of crisis or war.

**Article 48** contains procedural requirements for imports from a country Party to the Basel Convention or from other areas during situations of crisis or war. This Article refers *mutatis mutandis* to Title II and provides for relevant adaptations and additions to the provisions there. Procedural provisions in Chapter 2 of this Title IV refer back to this article.

**Chapter 2** of this Title contains provisions on the import of waste into the Union for recovery.

**Article 49** prohibits imports except from an OECD Decision country or a country Party to the Basel Convention or with an agreement in place or from other areas during situations of crisis or war.

**Article 50** contains procedural requirements for imports from an OECD Decision country or from other areas during situations of crisis or war. This Article refers *mutatis mutandis* to Title II and refers to Article 45, and provides for relevant adaptations and additions to the provisions there.

**Article 51** contains procedural requirements for imports from a non-OECD Decision country Party to the Basel Convention or from other areas during situations of crisis or war. This Article refers *mutatis mutandis* to Article 45.

**Chapter 3** of this Title contains additional obligations.

**Article 52** contains obligations for Member States of import to ensure the sound management of imported waste and prohibit any such import if there is reason to believe the waste will not be managed properly.

**Chapter 4** of this Title contains general provisions.

**Article 53** provides that for imports from overseas countries or territories Title II applies *mutatis mutandis*.

**Title VI** contains provisions on transit through the Union from and to third countries.

**Article 54** contains provisions for the transit for disposal.

**Article 55** contains provisions for the transit for recovery.

**Title VII** contains provisions on enforcement of this Regulation.

**Chapter 1** of this Title consists of one article (**Article 56**) and provides for the general obligations for all those involved in shipments of waste to take the necessary steps to ensure that, throughout the period of shipment and during its recovery and disposal, any waste they ship is managed without endangering human health and in an environmentally sound manner.

**Chapter 2** of this Title contains provisions on the enforcement of this Regulation.

**Section 1** addresses the enforcement actions by Member States.

**Article 57** contains provisions on inspections.

**Article 58** contains provisions on documentation and evidence.

**Article 59** contains provisions on inspection plans by Member States.

**Article 60** contains provisions on penalties.

**Article 61** contains provisions on enforcement cooperation at national level.

**Article 62** contains provisions on enforcement cooperation between Member States.

**Article 63** contains provisions on the waste shipment enforcement group.

**Section 2** addresses the enforcement activities actions by the Commission in the context of this Regulation.

**Title VIII** contains final provisions.

**Article 69** contains provisions on reporting obligations for Member States.

**Article 70** contains provisions on international cooperation.

**Article 71** contains provisions on the designation of competent authorities in Member States.

**Article 72** contains provisions on the designation of correspondents.

**Article 73** contains provisions on the designation of customs offices of entry into and exit from the Union.

**Article 74** contains provisions on the notification of, and information regarding, designations.

**Article 75** contains provisions on the amendment of Annexes I to X to this Regulation.

**Article 76 and 77** set out the conditions for the Commission's adoption of delegated and implementing acts.

**Article 78** amends Regulation (EU) No 1257/2013 to align it and this Regulation with the applicable international obligations of the Union and its Member States as regards end-of-life vessels.

**Article 79** amends Regulation (EU) No 2020/1056 to update the references made in that Regulation to waste transport documents.

**Article 80** provides for a review of this Regulation in 2034.

**Article 81** provides for repeal and transitional rules.

**Article 82** provides for the entry into force and application of this Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>30</sup>,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) It is necessary to lay out rules at the Union level to protect the environment and human health against the adverse impacts which may result from the shipment of waste. These rules should also contribute to the facilitation of environmentally sound management of waste, in accordance with the waste hierarchy laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council<sup>31</sup>, as well as to the reduction of overall impacts of resource use and to the improvement of the efficiency of such use, which is crucial for the transition to a circular economy.
- (2) Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>32</sup> has, over the past fifteen years, brought about important improvements to protect the environment and human health against the adverse impacts which may result from the shipment of waste. However, the Commission's evaluation<sup>33</sup> of that Regulation has also revealed a number of challenges and shortcomings, which need to be addressed through new regulatory provisions.
- (3) The European Green Deal<sup>34</sup> sets out an ambitious roadmap to transform the Union into a sustainable, resource efficient and climate neutral economy. It calls on the

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<sup>30</sup> OJ C , , p. .

<sup>31</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>32</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

<sup>33</sup> Commission Staff Working Document on the evaluation of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (SWD(2020) 27 final).

<sup>34</sup> Communication from the Commission to the European Parliament, the European Council, the Council,



Commission to review the Union rules on waste shipments established under Regulation (EC) No 1013/2006. The New Circular Economy Action Plan<sup>35</sup> adopted in March 2020 further stresses the need for action to ensure that shipments of waste for re-use and recycling in the Union are facilitated, that the Union does not export its waste challenges to third countries and that illegal waste shipments are better addressed. In addition to the environmental and social benefits, this can also result in ameliorating EU's strategic dependencies on raw materials. Both the Council<sup>36</sup> and the European Parliament<sup>37</sup> have also called for a revision of the current Union rules on waste shipments established under Regulation (EC) No 1013/2006.

- (4) Regulation (EC) No 1013/2006 has already been amended on several occasions and requires further significant amendments to ensure that the policy objectives of the European Green Deal and the New Circular Economy Action Plan are met. Regulation (EC) No 1013/2006 should therefore be replaced by a new Regulation.
- (5) This Regulation supplements the general waste management legislation of the Union, such as Directive 2008/98/EC. It refers to the definitions in that Directive, including, the definitions of waste and general waste management operations. It also includes a number of additional definitions in order to facilitate uniform application of this Regulation.
- (6) This Regulation implements at Union level the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal<sup>38</sup> ('the Basel Convention'). The Basel Convention aims to protect human health and the environment against the adverse effects resulting from the generation, transboundary movements and management of hazardous wastes and other wastes. The Union has been a Party to the Basel Convention since 1994<sup>39</sup>.
- (7) This Regulation also implements at Union level an amendment to the Basel Convention<sup>40</sup> (the Ban Amendment) which was adopted in 1995 and entered into force at the international level on 5 December 2019. The Ban Amendment establishes a general prohibition on all exports of hazardous waste that are intended for final disposal, re-use, recycling and recovery from countries listed in Annex VII to the Basel Convention to all other countries. The Union has ratified the Ban Amendment and implemented it since 1997<sup>41</sup>.

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the European Economic and Social Committee and the Committee of the Regions, The European Green Deal (COM (2019) 640 final)

<sup>35</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 March 2020, A new Circular Economy Action Plan – For a cleaner and more competitive Europe (COM(2020)98 final).

<sup>36</sup> Council conclusions on Making the Recovery Circular and Green (13852/20 OJ CONS 34).

<sup>37</sup> European Parliament resolution of 10 February 2021 on the New Circular Economy Action Plan (2020/2077(INI)).

<sup>38</sup> OJ L 39, 16.2.1993, p. 3

<sup>39</sup> Council Decision 93/98/EEC of 1 February 1993 on the conclusion, on behalf of the Community, of the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention) (OJ L 39, 16.2.1993, p. 1).

<sup>40</sup> Amendment to the Basel Convention ('Ban Amendment') adopted by Decision III/1 of the Parties to the Basel Convention.

<sup>41</sup> Council Decision 97/640/EC of 22 September 1997 concerned the approval, on behalf of the Community, of the Ban Amendment (OJ L 272, 4.10.1997, p. 45) and Council Regulation (EC) No

- (8) The Union submitted in October 2020 a notification, covering shipment of waste within the Union, to the Secretariat of the Basel Convention under Article 11 of that Convention. In line with that Article, the Union might therefore set out specific rules applying to the intra-EU shipments of waste which are not less environmentally sound than those provided for by the Basel Convention.
- (9) In view of the fact that the Union has approved the Decision of the OECD Council of 30 March 1992 on the Control of Transboundary Movements of Wastes Destined for Recovery Operations<sup>42</sup> ('the OECD Decision'), it is necessary to incorporate the content of that Decision, including its amendments, in Union legislation.
- (10) It is important to organise and regulate the supervision and control of shipments of waste in a way which takes account of the need to preserve, protect and improve the quality of the environment and human health and which ensures a uniform application of rules on waste shipments throughout the Union.
- (11) It is necessary to avoid duplication with applicable Union legislation on the transport of certain materials that could classify as waste under this Regulation.
- (12) Shipments of waste generated by armed forces or relief organisations should be excluded from the scope of this Regulation when imported into the Union in certain situations (including transit within the Union when the waste enters the Union). The requirements of international law and international agreements should be respected in relation to such shipments. In such cases, any competent authority of transit and the competent authority of destination in the Union should be informed in advance concerning the shipment and its destination.
- (13) It is necessary to avoid duplication with Regulation (EC) No 1069/2009 of the European Parliament and of the Council<sup>43</sup>, which already contains provisions covering the overall consignment, channelling and movement (collection, transport, handling, processing, use, recovery or disposal, record keeping, accompanying documents and traceability) of animal by-products within, into and out of the Union.
- (14) Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>44</sup> applies to large commercial ships flying the flag of a Member State of the Union, which were excluded from the scope of application of Regulation (EC) No 1013/2006. However, following the recent international entry into force of the Ban Amendment, it is necessary to ensure that the ships covered by the scope of Regulation (EU) No 1257/2013 which become waste in the Union are made subject to the relevant Union waste shipment rules implementing the Ban Amendment, in order to ensure strict legal compatibility of the Union's legal regime with international obligations. At the same time, it is also necessary to amend Regulation (EU) No 1257/2013 to clarify that ships falling within the scope of that Regulation and which become waste in the Union shall only be recycled at those facilities included in the European List of ship recycling

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120/97 of 20 January 1997 amended Regulation (EC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 22, 24.1.1997, p. 14).

<sup>42</sup> OECD/LEGAL/0266

<sup>43</sup> Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).

<sup>44</sup> Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

facilities established under that Regulation, which are located in countries listed in Annex VII to the Basel Convention.

- (15) Although the supervision and control of shipments of waste within a Member State is a matter for that Member State, national systems concerning shipments of waste should take account of the need for coherence with the Union system in order to ensure a high level of protection of the environment and human health.
- (16) In the case of shipments of waste not listed in Annex III, Annex IIIA or Annex IIIB of this Regulation and destined for recovery operations, it is appropriate to ensure optimal supervision and control by requiring prior written consent to such shipments. Such a procedure should in turn entail prior notification, which enables the competent authorities to be duly informed so that they can take all necessary measures for the protection of human health and the environment. It should also enable those authorities to raise reasoned objections to such shipments.
- (17) In order to support the implementation of the provisions in Directive 2008/98/EC designed to increase the separate collection of waste and reduce the generation of mixed municipal waste, shipments of mixed municipal waste to another Member State should be subject to particular scrutiny. Furthermore, in order to support the achievements of targets to increase recycling and reduce disposal of waste set out in Directive 2008/98/EC and Council Directive 1999/31/EC<sup>45</sup>, shipments of waste for disposal in another Member State should be generally prohibited. Shipments of waste for disposal should be allowed only in exceptional cases. In those cases, Member States should take into account the principles of proximity and self-sufficiency at Union and national levels, in accordance with Directive 2008/98/EC, and in particular Article 16 of that Directive, as well as the priority for recovery. Member States should also be able to ensure that the waste management facilities covered by Directive 2010/75/EU of the European Parliament and of the Council<sup>46</sup> apply best available techniques as defined in that Directive in compliance with the permit of the facility, and that the waste is treated in accordance with human health and environmental protection requirements in relation to disposal operations established in Union legislation.
- (18) In the case of shipments of waste listed in Annex III, Annex IIIA or Annex IIIB of this Regulation destined for recovery operations, it is appropriate to ensure a minimum level of supervision and control by requiring such shipments to be accompanied by certain information on the persons and countries involved in the shipments, the description and quantities of the waste concerned, the type of recovery operation for which the waste is shipped and the details of the facilities which will recover the waste.
- (19) It is necessary to set the grounds for Member States to object to shipments of waste destined for recovery. In the case of such shipments, Member States should be able to ensure that the waste management facilities covered by Directive 2010/75/EU apply best available techniques as set out in that Directive in compliance with the permit of the facility. Member States should also be able to ensure that waste is treated in accordance with human health and environmental protection requirements in relation to recovery operations established in Union legislation and that, taking account of

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<sup>45</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

<sup>46</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

Article 16 of Directive 2008/98/EC, waste is treated in accordance with waste management plans established pursuant to that Directive with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Union legislation.

- (20) It is necessary to provide for procedural steps and safeguards, when a notifier wishes to ship waste subject to the procedure of prior written notification and consent, in the interests of legal certainty and to ensure uniform application of this Regulation and the proper functioning of the internal market. It is also necessary, in line with Article 6(11) of the Basel Convention, to ensure that the costs arising from situations where the shipment of waste subject to the prior written notification and consent cannot be completed or is illegal, are borne by the relevant operators. To this end, the notifier should establish a financial guarantee or equivalent insurance for each shipment of such waste.
- (21) In order to reduce the administrative burden for both public and private operators involved in shipments to facilities recognised as ‘pre-consented’, it is necessary to set out the conditions under which the status of ‘pre-consented’ can be granted, to ensure their mutual recognition by all Member States and harmonise the requirements for shipping waste to these facilities.
- (22) In order to reduce delays in the processing of notifications for the shipment of waste and facilitate the exchange of information between the relevant authorities, it is necessary that the issuance and exchange of information and data, which relates to individual shipments of waste within the Union, be made via electronic means. It is also necessary to empower the Commission to lay out the procedural and operational requirements for the practical implementation of the systems ensuring this electronic submission and exchange of information (such as interconnectivity, architecture and security). It is also necessary to provide sufficient time for competent authorities in the Member States and economic operators to prepare for the shift from a paper based approach, as laid down in Regulation (EC) 1013/2006, to an approach to exchange information and documents electronically. This new obligation should therefore become applicable 24 months after the date of application of this Regulation.
- (23) Economic operators involved in the transport of waste should be allowed to use the environment as established in Regulation (EU) No 2020/1056 of the European Parliament and of the Council<sup>47</sup> for the exchange of the information required under this Regulation during the transport of the waste, and interoperability of the systems provided for in this Regulation and the environment for the exchange of electronic freight transport information should be ensured.
- (24) In order to facilitate the work carried out by customs in the implementation of this Regulation, it is necessary that the central system operated by the Commission that allows for the electronic submission and exchange of information and documents becomes interoperable with the European Union Single Window Environment for Customs, currently being developed at the Union level<sup>48</sup>, when all required technical work to ensure this operability is completed.

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<sup>47</sup> Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information ( OJ L 249, 31.7.2020, p. 33).

<sup>48</sup> Proposal by the Commission for a Regulation of the European Parliament and the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, COM(2020) 673 final.

- (25) Competent authorities in third countries should be able to issue and exchange the information and documents for the procedural requirements under this Regulation, via electronic means through the system operated at the Union level, if they so wish and if they comply with the requirements to exchange data via this system.
- (26) In order to ensure traceability of shipments of waste and not to impair the environmentally sound management of waste shipped across borders, it should be prohibited to mix waste with other waste from the start of the shipment to the receipt of the waste in recovery or disposal operation.
- (27) To facilitate the enforcement of the obligations laid down in this Regulation, it is important that economic operators and competent authorities keep documents and information required for the shipment of waste for a minimum period of five years from the date when a shipments starts.
- (28) Member States should be required to ensure that, in accordance with the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus Convention)<sup>49</sup>, the relevant competent authorities make publicly available by appropriate means information on notifications of shipments they have consented to, as well as on shipments of waste subject to the general information requirements of this Regulation, where such information is not confidential under national or Union legislation.
- (29) In order to implement the requirements set out in Article 9(2), (3) and (4) of the Basel Convention, an obligation should be laid down to the effect that waste from a shipment that cannot be completed as intended is to be taken back to the country of dispatch or recovered or disposed of in an alternative way. It should also be compulsory for the person whose action is the cause of an illegal shipment to take back the waste involved or make alternative arrangements for its recovery or disposal, and to bear the costs arising from the take-back operations. Failing that, the competent authorities of dispatch or destination, as appropriate, should cooperate to ensure the environmentally sound management of the waste concerned.
- (30) With a view to ensuring that competent authorities are able to correctly process the documents submitted to them relating to the shipment of waste, it is necessary to lay out an obligation for the notifier to provide an authorised translation of these documents in a language acceptable to these authorities, if they so request.
- (31) In order to avoid disruptions of shipments of waste or goods, due to a disagreement between competent authorities on the status of these waste or goods, it is necessary to set out a procedure to resolve such disagreements. It is important in that regard that competent authorities base their decisions on the provisions relating to the determination of by-products and to the end-of-waste status of Directive 2008/98/EC. It is also necessary to lay out a procedure to resolve disagreements between competent authorities as to whether waste should be subject or not to the notification procedure. To ensure a better harmonisation across the Union of the conditions under which waste should be subject to the notification procedure, the Commission should also be empowered to adopt implementing acts establishing criteria for the classification of specific waste in the relevant Annexes to this Regulation, which will determine whether or not it is subject to the notification procedure. In addition, in order to avoid

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<sup>49</sup> OJ L 124, 17.5.2005, p. 4.

that waste are falsely declared as used goods and to provide legal clarity, the Commission should be empowered to adopt implementing acts establishing criteria to distinguish between used goods and waste, for specific commodities for which such distinction is important, especially for their export from the Union.

- (32) To allow administrations to limit public expenditures linked to the handling of procedures for the shipment of waste and to the enforcement of this Regulation, it is necessary to foresee the possibility that appropriate and proportionate administrative costs linked to these procedures, as well as to supervision, analyses and inspections, be charged to the notifier.
- (33) In order to reduce administrative burdens and in exceptional circumstances, linked to specific geographical or demographical situations, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned. It should also be possible for a Member State to conclude such agreements with a country that is party to the Agreement on the European Economic Area, as well in a situation where waste is shipped from and treated in the country of dispatch but transits through another Member State.
- (34) It is necessary, in order to protect the environment of the countries concerned, to clarify the scope of the prohibition of exports laid down in accordance with the Basel Convention from the Union of any waste destined for disposal in a third country other than an EFTA (European Free Trade Association) country.
- (35) Countries that are Parties to the Agreement on the European Economic Area may adopt the control procedures provided for shipments within the Union. In such cases, shipments between the Union and these countries should be subject to the same rules as shipments within the Union.
- (36) To protect the environment of the countries concerned, it is necessary to clarify the scope of the prohibition of exports of hazardous waste destined for recovery in third countries to which the OECD Decision does not apply, in accordance with the Basel Convention. In particular, it is necessary to clarify the list of waste to which that prohibition applies and to ensure that it also includes the waste listed in Annex II to the Basel Convention, namely waste collected from households, residues from the incineration of household waste and hard-to-recycle plastic waste.
- (37) It is necessary to establish strict rules concerning the export for recovery of non-hazardous waste to third countries to which the OECD Decision does not apply, in order to ensure that this waste does not create damages to environment and public health in these countries. Under these rules, export from the Union should be allowed only to countries included in a list drawn up and to be updated by the Commission, when these countries have submitted a request to the Commission stating their willingness to receive certain non-hazardous waste from the Union and demonstrating their ability to manage such waste in an environmentally sound manner, on the basis of criteria laid down in this Regulation. Exports to countries other than those included in that list should be prohibited. To ensure sufficient time for the transition to this new regime, a transitional period of three years after the general date of application of this Regulation should be foreseen.
- (38) Countries to which the OECD decision applies are subject to the rules and recommendations laid down by the OECD on the shipment and management of waste,

and have generally higher standards for the management of waste than countries to which the OECD decision does not apply. It is however important that the export from the Union of non-hazardous waste for recovery does not create damages to environment and public health in countries to which the OECD decision applies. It is therefore necessary to establish a mechanism to monitor shipments of non-hazardous waste to such countries. In cases where the export of non-hazardous waste from the Union to the country concerned has considerably increased within a short period of time and there is a lack of information available demonstrating the ability of the country concerned to recover this waste in an environmentally sound manner, the Commission should enter into a dialogue with the country concerned and, if the information is not sufficient to prove that the waste is recovered in an environmentally sound manner, be empowered to suspend such exports.

- (39) The necessary steps should be taken to ensure that, in accordance with Directive 2008/98/EC and other Union legislation on waste, waste shipped within the Union and waste imported into the Union is managed, throughout the period of shipment and including recovery or disposal in the country of destination, without endangering human health and without using processes or methods which could harm the environment. It is also necessary to ensure that waste exported from the Union is managed in an environmentally sound manner throughout the period of shipment and including recovery or disposal in the third country of destination. To this end, an obligation should be introduced for exporters of waste to ensure that the facility which receives the waste in the third country of destination is made subject to an independent third party audit, prior to exporting waste to the facility in question. The purpose of this audit is to verify compliance of the facility in question with specific criteria laid down in this Regulation, designed to ensure that the waste will be managed in an environmentally sound manner. Where such audit concludes that the criteria laid down in this Regulation is not fulfilled by the facility in question, the exporter should not be entitled to export waste to this facility. This obligation should apply with regard to facilities located in all third countries, including those that are member of the OECD. The OECD Decision states that waste exported to another OECD country “*shall be destined for recovery operations within a recovery facility which will recover the wastes in an environmentally sound manner according to national laws, regulations and practices to which the facility is subject*”. The OECD Decision does not contain any element or criterion specifying how to implement this requirement as regards the “environmentally sound management” of waste. In the absence of common criteria defining the conditions under which waste shall be recovered in the relevant facilities, it is necessary to address the risk that waste exported from the EU to countries belonging to the OECD is mismanaged in specific facilities, and hence facilities located in these countries should be subject to the audit requirements foreseen in this Regulation.
- (40) Considering the right of each Party to the Basel Convention, pursuant to Article 4(1) thereof, to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention, imports into the Union of waste for disposal should be permitted where the exporting country is a Party to that Convention. Imports into the Union of waste for recovery should be permitted where the exporting country is one to which the OECD Decision applies or is a Party to the Basel Convention. In other cases, imports should be allowed only if the exporting country is bound by a bilateral or multilateral agreement or arrangement compatible with Union legislation and in accordance with Article 11 of the Basel Convention, except when this is not possible during situations of crisis, peacemaking, peacekeeping or war.

- (41) This Regulation should reflect the rules regarding exports and imports of waste to and from the overseas countries and territories laid down in Council Decision 2013/755/EU<sup>50</sup>.
- (42) In the specific cases of shipments taking place within the Union with transit via third countries, specific provisions pertaining to the consent procedure by third countries should apply. It is also necessary to adopt specific provisions pertaining to the procedures applying to the transit of waste through the Union from and to third countries.
- (43) For environmental reasons and in view of the particular status of the Antarctic, this Regulation shall explicitly prohibit the export of waste to this territory.
- (44) To ensure harmonised implementation and enforcement of this Regulation, it is necessary to lay out obligations for Member States to carry out inspections of the shipments of waste. Adequate planning of inspections of shipments of waste is also necessary to establish the capacity needed for inspections and to effectively prevent illegal shipments. Regulation (EC) No 1013/2006 required Member States to ensure that inspection plans for waste shipments be established by 1 January 2017. To facilitate more consistent application of the provisions related to inspection plans and to ensure harmonised approach for inspections across the Union, Member States should notify their inspection plans to the Commission, which should be tasked to review these plans and, where appropriate, issue recommendations for improvements.
- (45) Diverging rules exist in the Member States as regards the power of, and possibility for, authorities involved in inspections in Member States to require evidence to ascertain the legality of shipments. Such evidence could concern, inter alia, whether the substance or object is waste, whether the waste has been correctly classified, and whether the waste will be shipped to facilities managing waste in an environmentally sound manner in accordance with this Regulation. This Regulation should therefore provide the possibility for authorities involved in inspections in Member States to require such evidence. Such evidence may be requested on the basis of general provisions or on a case-by-case basis. Where such evidence is not made available or is considered to be insufficient, the carriage of the substance or object concerned, or the shipment of waste concerned should be considered as an illegal shipment and should be dealt with in accordance with the relevant provisions of this Regulation.
- (46) Member States should lay down rules on administrative penalties applicable to infringements of this Regulation and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. The evaluation of Regulation (EC) No 1013/2006 found that one of the shortcomings is that national rules on penalties differ significantly across the Union. Therefore, to facilitate more consistent application of penalties, common non-exhaustive criteria should be established for determining the types and levels of penalties to be imposed in case of infringements of this Regulation. These criteria should include, inter alia, the nature and gravity of the infringement and the economic benefits derived from and the environmental damage caused by the infringement, insofar as these can be determined. Furthermore, in addition to the administrative penalties required under this Regulation, Member States should ensure that illegal shipment of waste

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<sup>50</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ( ‘Overseas Association Decision’ ); OJ L 344, 19.12.2013, p. 1–118.



constitutes a criminal offence in serious cases, in accordance with the provisions laid down in Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008<sup>51</sup>.

- (47) Experience with the application of Regulation (EC) No 1013/2006 showed that the involvement of multiple actors at the national level creates challenges to coordination and cooperation in relation to enforcement. Therefore, Member States should ensure that all relevant authorities involved in enforcement of this Regulation have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of enforcement policies and activities to address illegal shipments of waste, including for the establishment and implementation of the inspection plans.
- (48) It is necessary for Member States to cooperate, bilaterally and multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments of waste. To further improve coordination and cooperation across the Union, a dedicated enforcement group should be established with the participation of designated representatives of the Member States and of the Commission, as well as representatives of other relevant institutions, bodies, offices, agencies or networks. This enforcement group should meet regularly. It should be a forum, inter alia, for sharing information and intelligence on trends in illegal shipments and for exchanging views on enforcement activities, including best practices.
- (49) To support and complement the enforcement activities of the Member States, the Commission should be empowered to carry out investigative and coordinating actions in respect of illegal shipments, which might have serious adverse effects on human health or the environment. In carrying out these activities, the Commission should act in full respect of procedural guarantees. The Commission may consider, as a matter of its internal organisation, entrusting certain enforcement actions foreseen by this Regulation to the European Anti-Fraud Office (OLAF), which possesses relevant expertise in that regard.
- (50) Member States should provide the Commission with information concerning the implementation of this Regulation, both through the reports submitted to the Secretariat of the Basel Convention and on the basis of a separate questionnaire. The Commission should produce a report every four years on the implementation of this Regulation, based on the information provided by the Member States as well as on other information, gathered in particular through ad hoc reports by the Commission and the European Environment Agency on the shipments of plastic waste and other specific waste streams that are a source of concern.
- (51) Efficient international cooperation regarding control of shipments of waste is instrumental in ensuring that shipments of waste are controlled and monitored on an appropriate level. Information exchange, shared responsibility and cooperative efforts between the Union and its Member States and third countries should be promoted with a view to ensuring sound management of waste.
- (52) In order to facilitate the exchange of information and cooperation for the implementation of this Regulation, Member States should designate competent

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<sup>51</sup> Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law( OJ L 328, 6.12.2008, p. 28)..

authorities and correspondents and notify them to the Commission, which should make this information publicly available.

- (53) Member States should be entitled, for the purpose of ensuring the control of waste shipments, to designate specific customs offices of entry and exit for shipments of waste entering and leaving the Union and notify them to the Commission, which should make this information publicly available.
- (54) In order to supplement or amend this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Articles 37(13), 40(8) and Article 72 of this Regulation. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>52</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (55) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt measures on a harmonised method for calculating the financial guarantee or equivalent insurance, to clarify the classification of waste under this Regulation (including the establishment of contamination level threshold for certain waste) and to clarify for certain types of commodities the distinction between used goods and waste when shipped transboundary. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>53</sup>.
- (56) Regulation (EU) 2020/1056 establishes a legal framework for the electronic communication of regulatory information between the economic operators concerned and competent authorities in relation to the transport of goods on the territory of the Union and covers parts of this Regulation in its provisions. In order to ensure consistency between the instruments, it is necessary to amend Regulation (EU) 2020/1056.
- (57) It is necessary to provide for sufficient time for economic operators to comply with their new obligations under this Regulation, and for Member States and the Commission to set up the administrative infrastructure necessary for its application. The application of several provisions of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Most provisions of this Regulation will become applicable two months after its entry into force, while the provisions linked to the obligations set out in Article 26 to issue and exchange documents electronically will become applicable two years after this date, and some provisions relating to the export of waste will become applicable three years after this date. In order to avoid any regulatory gap, it is necessary to ensure that some provisions of Regulation (EC) No 1013/2006 remain in force, until the date when the provisions of this regulation with a delayed application becomes applicable.

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<sup>52</sup> OJ L 123, 12.5.2016, p. 1.

<sup>53</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(58) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the need for harmonization, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

# Title I

## General Provisions

### *Article 1* *Subject matter*

This Regulation lays down measures to protect the environment and human health by preventing or reducing the adverse impacts which may result from the shipment of waste. It establishes procedures and control regimes for the shipment of waste, depending on the origin, destination and route of the shipment, the type of waste shipped and the type of treatment to be applied to the waste at its destination.

### *Article 2* *Scope*

1. This Regulation shall apply to:
  - (a) shipments of waste between Member States, with or without transit through third countries;
  - (b) shipments of waste imported into the Union from third countries;
  - (c) shipments of waste exported from the Union to third countries;
  - (d) shipments of waste in transit through the Union on the way to or from third countries.
2. This Regulation shall not apply to:
  - (a) the offloading to shore of waste, including waste water and residues, generated by the normal operation of ships and offshore platforms, provided that such waste is subject to the requirements of the International Convention for the Prevention of Pollution from Ships or other binding international instruments;
  - (b) waste generated on board vehicles, trains, aeroplanes and ships, until the first stop, station, airport or harbour in the Union where the vehicle, train, aeroplane or ship respectively stays for a duration long enough to allow for the offloading of the waste in order to be recovered or disposed of;
  - (c) shipments of radioactive waste as defined in Article 5 of Council Directive 2006/117/Euratom<sup>54</sup>;
  - (d) shipments of animal by-products and derived products as defined in Article 3(1) and (2) of Regulation (EC) No 1069/2009, respectively, except animal by-products or derived products mixed or contaminated with any waste listed as hazardous in the Annex to Commission Decision 2000/532/EC<sup>55</sup>;

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<sup>54</sup> Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel (OJ L 337, 5.12.2006, p. 21).

<sup>55</sup> Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).

- (e) shipments of the waste referred to in Article 2(1), point (e), and Article 2(2), points (a), (d) and (e), of Directive 2008/98/EC, where such shipments are already covered by other Union legislation;
  - (f) shipments of waste from the Antarctic into the Union which are in accordance with the requirements of the Protocol on Environmental Protection to the Antarctic Treaty<sup>56</sup>;
  - (g) shipments of CO<sub>2</sub> for the purposes of geological storage in accordance with Directive 2009/31/EC of the European Parliament and of the Council<sup>57</sup>;
  - (h) ships flying the flag of a Member State falling within the scope of Regulation (EU) No 1257/2013, with the exception of ships becoming waste in an area under the national jurisdiction of a Member State, to which Article 36, Title VII and Title VIII apply;
3. For imports of waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations where such waste is shipped, by those armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination, only Article 48(6) shall apply.
  4. Shipments of waste from the Antarctic to third countries, which transit through the Union, shall be subject to Articles 36 and 56.
  5. For shipments of waste exclusively within a Member State, only Article 33 shall apply.

### *Article 3* *Definitions*

For the purposes of this Regulation, the following definitions apply:

- (1) ‘mixture of wastes’ means waste that results from an intentional or unintentional mixing of two or more different wastes, which are listed in different entries in Annexes III, IIIB and IV, or, where applicable, in different indents or sub-indents of such entries. Waste shipped in a single shipment of wastes, consisting of two or more wastes, where each waste is separated, is not a mixture of wastes;
- (2) ‘interim disposal’ means any of the disposal operations under D 13 to D 15 referred to in Annex I to Directive 2008/98/EC;
- (3) ‘interim recovery’ means any of the recovery operations under R 12 and R 13 referred to in Annex II to Directive 2008/98/EC;
- (4) ‘environmentally sound management’ means taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste;
- (5) ‘consignee’ means the person or undertaking under the national jurisdiction of the country of destination to whom or to which the waste is shipped for recovery or disposal;

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<sup>56</sup> Protocol on Environmental Protection to the Antarctic Treaty of 1991.

<sup>57</sup> Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

- (6) 'notifier' means:
- (a) in the case of a shipment originating from a Member State, any natural or legal person under the national jurisdiction of that Member State who plans or carries out a shipment of waste and to whom the duty to notify is assigned, and who is listed below:
    - (i) the original waste producer;
    - (ii) the new waste producer who carries out operations prior to shipment,
    - (iii) a collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single notified location;
    - (iv) a dealer or a broker acting on behalf of any of the categories specified in points (i), (ii) or (iii);
    - (v) where all of the persons specified above, are unknown or insolvent, the waste holder;
  - (b) in the case of import into, or transit through, the Union of waste that does not originate in a Member State, any of the following natural or legal persons under the national jurisdiction of the country of dispatch who plans or carries out a shipment of waste or intends to have, or who has had, a shipment of waste carried out:
    - (i) the person designated by the law of the country of dispatch;
    - (ii) in the absence of a person designated by the law of the country of dispatch, the waste holder at the time the export took place;
- (7) 'collector' means any natural or legal person carrying out waste collection as defined in Article 3, point (10), of Directive 2008/98/EC.
- (8) 'competent authority' means:
- (a) in the case of a Member State, the body designated by the Member State concerned in accordance with Article 71;
  - (b) in the case of a third country that is a Party to the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal ('the Basel Convention'), the body designated by that country as the competent authority for the purposes of the Basel Convention in accordance with Article 5 thereof;
  - (c) in the case of any country not referred to in either point (a) or point (b), the body that has been designated as the competent authority by the country or region concerned or, in the absence of such designation, the regulatory authority for the country or region, as appropriate, which has jurisdiction over shipments of waste for recovery or disposal, or transit, as the case may be;
- (9) 'competent authority of dispatch' means the competent authority for the area from which the shipment is planned to be initiated or is initiated;
- (10) 'competent authority of destination' means the competent authority for the area to which the shipment is planned or takes place, or in which waste is loaded prior to recovery or disposal in an area not under the national jurisdiction of any country;

- (11) ‘competent authority of transit’ means the competent authority for any country, other than the country of the competent authority of dispatch and the competent authority of destination, through which the shipment is planned or takes place;
- (12) ‘country of dispatch’ means any country from which a shipment of waste is planned to be initiated or is initiated;
- (13) ‘country of destination’ means any country to which a shipment of waste is planned or takes place for recovery or disposal therein, or for the purpose of loading prior to recovery or disposal in an area not under the national jurisdiction of any country;
- (14) ‘country of transit’ means any country, other than the country of dispatch or destination, through which a shipment of waste is planned or takes place;
- (15) ‘area under the national jurisdiction of a country’ means any land or marine area within which a state exercises administrative and regulatory responsibility in accordance with international law as regards the protection of human health or the environment;
- (16) ‘overseas countries and territories’ means the overseas countries and territories listed in Annex II to the Treaty;
- (17) ‘customs office of export’ means customs office of export as defined in Article 1, point (16), of Commission Delegated Regulation (EU) 2015/2446<sup>58</sup>;
- (18) ‘customs office of exit’ means customs office of exit as determined in accordance with Article 329 of Commission Implementing Regulation (EU) 2015/2447<sup>59</sup>;
- (19) ‘customs office of entry’ means customs office of first entry as defined in Article 1, point (15), of Delegated Regulation (EU) 2015/2446 ;
- (20) ‘import’ means any entry of waste into the Union but excluding transit through the Union;
- (21) ‘export’ means any exit of waste from the Union but excluding transit through the Union;
- (22) ‘transit’ means a shipment of waste or a planned shipment of waste through one or more countries other than the country of dispatch or destination;
- (23) ‘transport’ means the carriage of waste by road, rail, air, sea or inland waterways;
- (24) ‘shipment’ means the transport of waste destined for recovery or disposal from the point of loading until the waste is recovered or disposed of in the country of destination, which is planned to take place, or takes place:
  - (a) between a country and another country;
  - (b) between a country and overseas countries and territories or other areas, under that country's protection;
  - (c) between a country and any geographic area which is not part of any country under international law;

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<sup>58</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

<sup>59</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

- (d) between a country and the Antarctic;
  - (e) from one country through any of the areas referred to in points (a) to (d);
  - (f) within a country through any of the areas referred to in points (a) to (d) and which originates in and ends in the same country; or
  - (g) from a geographic area not under the national jurisdiction of any country, to a country;
- (25) 'illegal shipment' means any shipment of waste effected:
- (a) without notification to the competent authorities concerned pursuant to this Regulation;
  - (b) without the consent of the competent authorities concerned pursuant to this Regulation;
  - (c) with consent obtained from the competent authorities concerned pursuant to this Regulation through falsification, misrepresentation or fraud;
  - (d) in a way which is not in accordance with the information contained in the notification or movement documents;
  - (e) in a way which results in recovery or disposal in contravention of Union or international rules;
  - (f) contrary to Articles 11, 34, 36, 37, 42, 44, 45, 46 or 47;
  - (g) in a way which, in relation to shipments of waste as referred to in Article 4(3) and (5), results in any of the following:
    - (i) the waste not being listed in Annex III, Annex IIIA or Annex IIIB,
    - (ii) non-compliance with Article 4(5),
    - (iii) non-compliance with Article 18;
- (26) 'inspection' means an action undertaken by an authority to ascertain whether an establishment, an undertaking, a broker, a dealer, a shipment of waste or the related recovery or disposal complies with the requirements set out in this Regulation;
- (27) 'waste hierarchy' means waste hierarchy as referred to in Article 4 of Directive 2008/98/EC.

In addition, the definitions of 'waste', 'hazardous waste', 'treatment', 'disposal', 'recovery', 'preparing for re-use', 're-use', 'recycling', 'waste producer', 'waste holder', 'dealer' and 'broker' laid down in Article 3, points (1), (2), (14), (19), (15), (16), (13), (17), (5), (6), (7) and (8) respectively of Directive 2008/98/EC shall apply.



## Title II

# Shipments within the Union with or without transit through third countries

### *Article 4*

#### *Overall procedural framework*

1. Shipments of all wastes destined for disposal are prohibited, except if explicitly authorised in accordance with Article 11. In order to obtain authorisation in accordance with Article 11 for a shipment of waste destined for disposal, the procedure of prior written notification and consent laid down in Chapter 1 shall apply.
2. Shipments of the following wastes destined for recovery operations shall also be subject to the procedure of prior written notification and consent laid down in Chapter 1:
  - (a) wastes listed in Annex IV;
  - (b) wastes not classified under one single entry in either Annex III, Annex IIIB or Annex IV;
  - (c) mixtures of wastes, unless listed in Annex IIIA.
3. Shipments of the following wastes destined for recovery shall be subject to the general information requirements laid down in Article 18, if the amount of waste shipped exceeds 20 kg:
  - (a) waste listed in Annex III or Annex IIIB;
  - (b) mixtures of waste, provided that the composition of those mixtures does not impair their environmentally sound recovery and provided that such mixtures are listed in Annex IIIA.
4. Shipments of waste explicitly destined for laboratory analysis or experimental treatment trials to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall be subject to the general information requirements laid down in Article 18 where all of the following conditions are fulfilled:
  - (a) the amount of waste does not exceed the quantity reasonably needed to perform the analysis or trial in each particular case;
  - (b) the amount of waste does not exceed 150 kg or any higher amount agreed on a case-by-case basis by the competent authorities concerned and the notifier.
5. Paragraph 2 shall apply to shipments of mixed municipal waste collected from private households, from other waste producers or from both, as well as to mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties, where such waste is destined for recovery operations. Shipments of such waste destined for disposal shall be prohibited.

# Chapter 1

## Prior written notification and consent

### *Article 5* *Notification*

1. Only notifiers that have received a permit or are registered in accordance with Chapter IV of Directive 2008/98/EC may submit a prior written notification ('notification').

Where those notifiers intend to ship waste referred to in Article 4(1) or (2), they shall submit a notification to all competent authorities concerned.

Where those notifiers submit a general notification for several shipments as referred to in Article 13, they shall also comply with the requirements laid down in that Article.

Where a shipment is destined to a pre-consented facility pursuant to Article 14, the procedural requirements in paragraphs 6, 8 and 9 of that Article shall apply.

2. The notification shall include the following documents:
  - (a) the notification document set out in Annex IA ('the notification document');
  - (b) the movement document set out in Annex IB ('the movement document').

The notifier shall provide the information in the notification document and, when available, the information in the movement document.

When the notifier is not the original waste producer referred to in Article 3, point (6)(a)(i), the notifier shall ensure that the original waste producer or one of the persons indicated in Article 3, points (6)(a)(ii) or (iii), also signs the notification document.

3. The notification document or annex thereto, shall contain the information and documentation as listed in Part 1 of Annex II. The movement document or an annex thereto, shall contain the information and documentation referred to in Part 2 of Annex II, when available.
4. A notification shall be considered properly carried out when the competent authority of dispatch is satisfied that the notification document and movement document have been completed in accordance with paragraph 3.
5. Where requested by any of the competent authorities concerned, the notifier shall supply additional information and documentation. A list of additional information and documentation that may be requested is set out in Part 3 of Annex II.

A notification shall be considered properly completed when the competent authority of destination is satisfied that the notification document and the movement document that have been properly carried out in accordance with paragraph 3, have been completed with any additional information and documentation as listed in Part 3 of Annex II.

6. Evidence of the contract concluded in accordance with Article 6 or a declaration certifying its existence in accordance with Annex IA shall be provided to the competent authorities concerned at the time of notification.

7. A declaration that a financial guarantee or equivalent insurance has been established in accordance with Article 7 shall be provided by the notifier through completion of the appropriate part of the notification document.

The financial guarantee or equivalent insurance as referred to in Article 7 or, if the competent authorities concerned so allow, a declaration certifying its existence in accordance with Annex IA shall be provided to the competent authorities concerned as part of the notification document at the time of notification.

By way of derogation from the first subparagraph, the evidence referred to in that subparagraph may, where the concerned competent authorities so allow, be provided after the notification is submitted, but at the latest before the shipment starts.

8. The notification shall cover the shipment of waste from its initial place of dispatch and including its interim and non-interim recovery or disposal.

Where subsequent interim or non-interim recovery or disposal operations take place in a country other than the first country of destination, the non-interim operation and its destination shall be indicated in the notification and Article 15(6) shall apply.

Only one waste identification code shall be covered for each notification. Where wastes are not classified under one single entry in Annex III, Annex IIIB or Annex IV, also only one waste identification code shall be covered for each notification.

Where mixtures of wastes are not classified under one single entry in Annex III, Annex IIIB or Annex IV but they are listed in Annex IIIA, the code for each fraction of the waste shall be specified in order of importance.

#### *Article 6* *Contract*

1. All shipments of waste for which notification is required shall be subject to the requirement of the conclusion of a contract between the notifier and the consignee for the recovery or disposal of the notified waste.
2. The contract shall be concluded and effective at the time of notification and for the duration of the shipment until a certificate is issued in accordance with Article 15(5), Article 16(4), or, where appropriate, Article 15(4).
3. The contract shall include obligations:
  - (a) on the notifier to take the waste back if the shipment or the recovery or disposal has not been completed as intended or if it has been effected as an illegal shipment, in accordance with Article 22 and Article 24(2);
  - (b) on the consignee to recover or dispose of the waste if it has been effected as an illegal shipment, in accordance with Article 24(4);
  - (c) on the facility where the waste is recovered or disposed of, to provide, in accordance with Article 16(4), a certificate that the waste has been recovered or disposed of, in accordance with the notification and the conditions specified therein and the requirements of this Regulation.
4. Where the waste shipped is destined for interim recovery or interim disposal operations, the contract shall include the following additional obligations:

- (a) on the consignee to provide, in accordance with Article 15(4) and, where appropriate, Article 15(5), the certificate(s) from the facility or facilities carrying out the non-interim recovery or disposal operation(s), that all waste received in accordance with the notification and the conditions specified therein and the requirements of this Regulation, has been recovered or disposed of, specifying where possible the quantity and type of waste covered by each certificate;
  - (b) on the consignee to submit, where applicable, a notification to the initial competent authority of the initial country of dispatch in accordance with Article 15(6), point (b).
- 5. Where the waste is shipped between two establishments under the control of the same legal entity, the contract referred to in paragraph 1 may be replaced by a declaration by that legal entity. That declaration shall cover the obligations referred to in paragraph 3.

#### *Article 7*

##### *Financial guarantee or equivalent insurance*

- 1. All shipments of waste for which notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance, covering all the following costs:
  - (a) costs of transport;
  - (b) costs of recovery or disposal, including any necessary interim operation;
  - (c) costs of storage for 90 days.
- 2. The financial guarantee or equivalent insurance shall cover costs arising in the context of all the following cases:
  - (a) cases where a shipment or the recovery or disposal cannot be completed as intended, as referred to in Article 22;
  - (b) cases where a shipment or the recovery or disposal is illegal, as referred to in Article 24.
- 3. The financial guarantee or equivalent insurance shall be established by the notifier or by another natural or legal person on its behalf and shall be effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest when the shipment starts. The financial guarantee or equivalent insurance shall apply to the notified shipment at the latest when the shipment starts.
- 4. The competent authority of dispatch shall approve the financial guarantee or equivalent insurance, including the form, wording and amount of the cover.

In cases of import into the Union, the competent authority of destination in the Union shall also review the amount of the cover and, if necessary, approve an additional financial guarantee or equivalent insurance.
- 5. The financial guarantee or equivalent insurance shall be valid for and cover a notified shipment and completion of recovery or disposal of the notified waste.

The financial guarantee or equivalent insurance shall be released when the competent authority concerned has received the certificate referred to in Article 16(4) or, where

appropriate, the certificate referred to in Article 15(5) as regards interim recovery operations or disposal operations.

6. By way of derogation from paragraph 5, where the waste shipped is destined for interim recovery operations or disposal operations and a further recovery operation or disposal operation takes place in the country of destination, the financial guarantee or equivalent insurance may be released when the waste leaves the interim facility and the competent authority concerned has received the certificate referred to in Article 16(4). In that case, any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance unless the competent authority of destination is satisfied that such a financial guarantee or equivalent insurance is not required. In those circumstances, the competent authority of destination shall be responsible for obligations arising in the case of take-back where the shipment or the further recovery or disposal operation cannot be completed as intended, as referred to in Article 22, or in the case of an illegal shipment, as referred to in Article 24.
7. The competent authority within the Union which has approved the financial guarantee or equivalent insurance shall have access to that guarantee or insurance and shall make use of the funding, including for the purpose of payments to other authorities concerned, in order to meet the obligations arising in accordance with Articles 23 and 25.
8. In the case of a general notification pursuant to Article 13, a financial guarantee or equivalent insurance covering parts of the general notification may be established, instead of one covering the entire general notification. In such cases, the financial guarantee or equivalent insurance shall apply to the notified shipment which it covers at the latest at the start of that shipment.
9. The financial guarantee or equivalent insurance referred to in the paragraph 1 shall be released when the competent authority concerned has received the certificate referred to in Article 16(4) or, where appropriate, in Article 15(5) as regards interim recovery or disposal operations for the relevant waste. Paragraph 6 shall apply *mutatis mutandis*.
10. The Commission shall, at the latest by [OP: Please insert date of two years after the date of entry into force of this Regulation], assess the feasibility of establishing a harmonised calculation method for determining the amount of financial guarantees or equivalent insurances and, if appropriate, adopt an implementing act to establish such a harmonised calculation method. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

In carrying out the assessment referred to in the first subparagraph the Commission shall take into account, inter alia, the relevant rules of the Member States relating to the calculation of the financial guarantee or equivalent insurance as referred to in this Article.

#### Article 8

##### *Requests for information and documentation by the competent authorities concerned*

1. If the notification is not properly carried out as referred to in Article 5(4), the competent authority of dispatch shall request information and documentation from the notifier in accordance with Article 5(3).

The request for information and documentation referred to in the first subparagraph shall be sent to the notifier within three working days after submission of the notification.

2. The notifier shall provide the information and documentation referred to in paragraph 1 within seven days after the request by the competent authority of dispatch.
3. Where the competent authority of dispatch considers that the notification is still not properly carried out as referred to in Article 5(3) after the requested information and documentation have been added to the notification, or where no information has been provided by the notifier pursuant to paragraph 2, it shall decide that the notification is not valid and shall not be further processed.

The competent authority of dispatch shall inform the notifier and the other competent authorities concerned of the decision referred to in the first subparagraph, within seven days after the requested information and documentation have been added to the notification or where no information has been provided by the notifier pursuant to paragraph 2.

4. Where the notification has been properly carried out, as referred to in Article 5(3), the competent authority of dispatch shall immediately inform the notifier and other competent authorities concerned thereof.

Where any of the competent authorities concerned considers that additional information and documentation is required to complete the notification as referred to in Article 5(4), it shall, within three working days after receipt of the information as referred to in the first subparagraph, request such information and documentation from the notifier and inform the other competent authorities of that request.

5. The notifier shall provide the information and documentation referred to in paragraph 4 within seven days after the request by the competent authority concerned.

Where any of the competent authorities considers that the notification is still not completed, or the notifier does not provide the requested information, within the deadline set out in the first subparagraph, the competent authority concerned shall, within three working days after the expiry of the deadline set out in the first subparagraph, decide that the notification is not valid and shall not be further processed.

If no decision as referred to in the second subparagraph has been taken within the deadline set, the notification shall be considered completed.

The concerned competent authority shall immediately inform the notifier and the other concerned competent authorities of the decision referred to in the second subparagraph.

6. Where, within 30 days after the submission of the notification, the competent authority of dispatch has not acted in accordance with paragraph 3 or paragraph 4, first subparagraph, it shall provide the notifier with a motivated explanation upon request.

Where, within 30 days after the submission of the notification, a competent authority has not acted under paragraph 4, second subparagraph, or paragraph 5, and has not consented to a shipment pursuant to Article 11(2) or has objected to a shipment pursuant to Article 12 for reasons relating to the notification not being complete as referred to in Article 5(4), it shall provide the notifier with a motivated explanation upon request.

## Article 9

### *Consents by the competent authorities and time periods for transport, recovery or disposal*

1. The competent authorities of destination, dispatch and transit shall take, within 30 days after the submission of the notification, one of the following duly motivated decisions as regards the notified shipment:
  - (a) consent without conditions;
  - (b) consent with conditions in accordance with Article 10;
  - (c) objections in accordance with Article 12.

Tacit consent by the competent authorities of dispatch and transit may be assumed if no objection is lodged within the 30-day time limit referred to in the first subparagraph. That tacit consent shall be valid for the period referred to in the written consent given by the competent authority of destination.

2. The competent authorities of destination, and, where appropriate, dispatch and transit, shall transmit their decision and the reasons thereof to the notifier within the 30-day time limit referred to in paragraph 1. That decision shall be available to all competent authorities concerned.

Where, within 30 days after submission of the notification, the competent authority of destination has not taken a decision under paragraph 1, it shall provide the notifier with a motivated explanation upon request.

3. A written consent to a planned shipment shall expire on the later date as indicated in the notification document. It shall not cover a period of more than one calendar year or any shorter period as indicated in their decision by the competent authorities concerned.
4. The planned shipment may take place only after fulfilment of the requirements set out in Article 16(1), points (a) and (b), and during the period of validity of the tacit or written consent of all competent authorities concerned. A shipment shall have left the country of dispatch by the end of the period of validity of the tacit or written consents of all competent authorities concerned.
5. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year after the receipt of the waste by the facility that recovers or disposes of the shipped waste, unless a shorter period is indicated by the competent authorities concerned in their decision.
6. The competent authorities concerned shall withdraw their tacit or written consent where they have knowledge of any of the following:
  - (a) the composition of the waste is not as notified;
  - (b) the conditions imposed on the shipment are not respected;
  - (c) the waste is not recovered or disposed of in compliance with the permit of the facility that performs the recovery operation or disposal operation;
  - (d) the waste is to be, or has been, shipped, recovered or disposed of in a way that is not in accordance with the information supplied on, or annexed to, the notification and movement documents.
7. Any withdrawal of consent shall be transmitted by means of official notice to the notifier, the competent authorities concerned and the consignee.

*Article 10*  
*Conditions for a shipment*

1. The competent authorities of dispatch, destination and transit may, within the 30-day time limit referred to in Article 9(1), lay down conditions for their consent to a notified shipment. Such conditions shall be based on one or more of the grounds listed in Article 12.
2. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in Article 9(1), lay down conditions in respect of the transport of waste within their national jurisdiction. Such transport conditions shall not be more stringent than those laid down in respect of similar shipments occurring wholly within their national jurisdiction and shall take due account of existing agreements, in particular relevant international agreements.
3. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in Article 9(1), lay down a condition that their consent is to be considered withdrawn if the financial guarantee or equivalent insurance is not applicable at the latest when the notified shipment starts, as required by Article 7(3).
4. Conditions shall be specified in, or annexed to, the notification document by the competent authority that lays them down.
5. The competent authority of destination may also, within the 30-day time limit referred to in Article 9(1), lay down a condition that the facility which receives the waste shall keep a regular record of inputs, outputs and/or balances for wastes and the related recovery operations or disposal operations as specified in the notification, and for the period of validity of the notification. Such records shall be signed by a person legally responsible for the facility and shall be sent to the competent authority of destination within one month of completion of the notified recovery operation or disposal operation.

*Article 11*  
*Prohibition of shipments of waste destined for disposal*

1. Where a notification is submitted regarding a planned shipment of waste destined for disposal in accordance with Article 5, the competent authorities of dispatch and of destination shall only give their written consent to that shipment, within the 30-day limit referred to in Article 9(1), if all the following conditions are fulfilled:
  - (a) the notifier demonstrates that:
    - (i) the waste cannot be recovered in a technically feasible and economically viable manner, or must be disposed of due to legal obligations in Union or international law;
    - (ii) the waste cannot be disposed of in a technically feasible and economically viable manner in the country where it was generated;
    - (iii) the planned shipment or disposal is in accordance with the waste hierarchy and the principles of proximity and self-sufficiency at Union and national levels as laid down in Directive 2008/98/EC;
  - (b) the notifier or the consignee has previously not been convicted of illegal shipment or any other illegal act in relation to environmental protection;



- (c) the notifier or the facility has not failed to comply with Articles 15 and 16 in connection with past shipments of waste;
  - (d) the planned shipment or disposal does not conflict with obligations resulting from international conventions concluded by the Member State(s) concerned or the Union;
  - (e) the waste concerned will be treated in accordance with legally binding environmental protection standards in relation to disposal operations established in Union legislation, and, if the facility is covered by Directive 2010/75/EU, it shall apply best available techniques as defined in Article 3(10) of that Directive in compliance with the permit of the facility;
  - (f) the waste is not mixed municipal waste (waste code 20 03 01 or 20 03 99) collected from private households, from other waste producers or both, or mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties.
2. The competent authorities of transit shall only give their consent to that shipment, within the 30-day limit referred to in Article 9(1), if the conditions set out in paragraph 1, points (b), (c) and (d), of this Article are fulfilled.
  3. Where the competent authorities concerned have not authorised a planned shipment of waste destined for disposal within the 30-day time limit referred to in Article 9(1), the notification of that shipment shall cease to be valid and the shipment shall be prohibited in accordance with Article 4(1). In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.
  4. Consents by competent authorities in accordance with paragraph 1 shall immediately be notified to the Commission which shall inform the other Member States thereof.

## *Article 12*

### *Objections to shipments of waste destined for recovery*

1. Where a notification is submitted regarding a planned shipment of waste destined for recovery in accordance with Article 5, the competent authorities of destination and dispatch may, within the 30-day time limit referred to in Article 9(1), raise motivated objections based on one or more of the following grounds:
  - (a) the planned shipment or recovery would not be in accordance with Directive 2008/98/EC;
  - (b) the waste concerned will not be treated in accordance with waste management plans or waste prevention programmes drawn up, respectively, pursuant to Articles 28 and 29 of Directive 2008/98/EC;
  - (c) the planned shipment or recovery would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the country of the objecting competent authority;
  - (d) the planned shipment or recovery would not be in accordance with national legislation in the country of dispatch relating to the recovery of waste, including where the planned shipment would concern waste destined for recovery in a facility which has lower treatment standards for the particular

waste than those of the country of dispatch, respecting the need to ensure the proper functioning of the internal market, unless:

- (i) there is corresponding Union legislation, in particular related to waste, and requirements that are at least as stringent as those laid down in that Union legislation have been introduced in national legislation transposing such Union legislation;
  - (ii) the recovery operation in the country of destination takes place under conditions that are broadly equivalent to those prescribed in the national legislation of the country of dispatch;
  - (iii) the national legislation in the country of dispatch, other than that covered by point (i), has not been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>60</sup>, where required by that Directive;
- (e) limiting incoming shipments of waste destined for recovery operations other than recycling and preparing for re-use is necessary for a Member State in order to protect its waste management network, where it is established that such shipments would result in domestic waste having to be disposed of or treated in a way that is not consistent with their waste management plans;
  - (f) the notifier or the consignee has previously been convicted of illegal shipment or any other illegal act in relation to environmental protection.
  - (g) the notifier or the facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments;
  - (h) the planned shipment or recovery conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or by the Union;
  - (i) the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction of the waste do not justify the recovery, having regard to economic or environmental considerations;
  - (j) the waste planned for shipment is destined for disposal and not for recovery;
  - (k) the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to recovery operations, or legally binding recovery or recycling obligations established in Union legislation or the waste will be treated in a facility which is covered by Directive 2010/75/EU, but which does not apply best available techniques as defined in Article 3(10) of that Directive.
2. The competent authorities of transit may, within the 30-day time limit referred to in paragraph 1, raise motivated objections to the planned shipment of waste destined for recovery based only on the grounds set out in paragraph 1, points (c), (f), (g) and (h), of this Article.

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<sup>60</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

3. Where, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall immediately inform the notifier thereof.
4. Where the problems giving rise to the objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification of the shipment of waste destined for recovery shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.
5. Objections raised by competent authorities on the grounds set out in paragraph 1, points (d) and (e), of this Article shall be reported by Member States to the Commission in accordance with Article 68.
6. The competent authority of dispatch shall inform the Commission and the other Member States of the national legislation on which objections raised by competent authorities in accordance with paragraph 1, points (d) and (e), may be based, and shall state to which waste and waste recovery operations those objections apply, before such legislation is invoked as grounds for a motivated objection.

### *Article 13* *General notification*

1. The notifier may submit a general notification covering several shipments where all the following requirements are fulfilled:
  - (a) the waste contained in the different shipments has essentially similar physical and chemical characteristics;
  - (b) the waste contained in the different shipments is shipped to the same consignee and the same facility;
  - (c) the routing of the different shipments, in particular the points of exit from and entry into each country concerned, as indicated in the notification document is the same.
2. Where, owing to unforeseen circumstances, the same routing cannot be followed for all shipments, the notifier shall inform the competent authorities concerned by the general notification as soon as possible and before the shipments start where the need for modification is already known.

Where the routing modification is known before the shipments start and involves competent authorities other than those concerned by the general notification, the general notification may not be used and a new notification shall be submitted in accordance with Article 5.
3. The competent authorities concerned may make their agreement to the use of a general notification subject to the subsequent provision of additional information and documentation, in accordance with Article 5(3) and (4).

### *Article 14* *Pre-consented recovery facilities*

1. A legal or natural person owning or exercising control over a recovery facility may submit a request for that facility to be pre-consented to the competent authority which has jurisdiction over the facility, as designated pursuant to Article 71.

2. The request referred to in paragraph 1 shall include the following information:
  - (a) the name, registration number and address of the recovery facility;
  - (b) copies of permits issued to the recovery facility to carry out waste treatment pursuant to Article 23 of Directive 2008/98/EC, as well as, where relevant, standards or certifications with which the facility complies;
  - (c) a description of technologies employed, including R-code(s), for the recovery operation for which the pre-consent is requested;
  - (d) the wastes for which the pre-consent is requested, as listed in Annex IV to this Regulation or, where relevant, in the Annex to Decision 2000/532/EC;
  - (e) the total quantity of each type of waste for which the pre-consent is requested, compared to the treatment capacity for which the facility is permitted;
  - (f) records of the activities of the facility linked to waste recovery, covering in particular the amount and types of waste treated in the last three years, where relevant;
  - (g) evidence or attestation that the legal or natural person owning or exercising control over the facility has not been convicted of illegal shipment or any other illegal act in relation to waste management.
3. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend paragraph 2 as regards the information to be included in the request.
4. The procedure referred to in paragraphs 5 to 10 of this Article shall apply to pre-consent a facility for which a request was submitted in accordance with paragraph 1.
5. The competent authority shall, within 45 days after the date of receipt of the request referred to in paragraph 1, assess the request and decide whether to approve it;
6. Where the legal or natural person referred to in paragraph 1 has provided all the information referred to in paragraph 2, the competent authority shall approve the request and issue a pre-consent for the facility concerned. The pre-consent may contain conditions relating to the duration of the pre-consent, the types and quantities of waste covered by the pre-consent, the technologies used or other conditions necessary to ensure that the waste is managed in an environmentally sound manner.
7. By way of derogation from paragraph 6, the competent authority may refuse to approve the request for pre-consent when they are not satisfied that issuing the pre-consent will ensure a high quality treatment of the waste concerned.
8. The decision to approve or refuse the request for pre-consent shall be communicated to the legal or natural person that submitted the request as soon as it is taken by the competent authority and shall be duly motivated.
9. Unless stated otherwise in the decision to approve the request for pre-consent, the pre-consent of a recovery facility shall be valid for seven years.
10. A pre-consent of a recovery facility may be revoked at any time by the competent authority. A decision to revoke a pre-consent shall be duly motivated and communicated to the facility concerned.
11. The legal or natural person referred to in paragraph 1 shall immediately inform the competent authority concerned of any change in the information referred to in paragraph 2. The competent authority concerned shall duly take those changes into

account when assessing the request for pre-consent and, if necessary, update the pre-consent.

12. In the case of a general notification submitted in accordance with Article 13 relating to shipments destined to a pre-consented facility, the period of validity of the consent referred to in Article 9(3) and (4) shall be extended to three years. By way of derogation from this rule, the competent authorities concerned may decide to shorten that period in duly justified cases.
13. The competent authorities that have issued a pre-consent to a facility in accordance with this Article shall, using the form set out in Annex VI, inform the Commission and, where appropriate, the OECD Secretariat of the following:
  - (a) the name, registration number and address of the recovery facility;
  - (b) a description of the technologies employed, including R-code(s);
  - (c) the wastes as listed in Annex IV or the wastes to which the pre-consent applies;
  - (d) the total pre-consented quantity;
  - (e) the period of validity;
  - (f) any change in the pre-consent;
  - (g) any change in the information notified;
  - (h) any revocation of the pre-consent.
14. By way of derogation from Articles 8, 9, 10 and 12, the consent given in accordance with Article 9(1), the conditions imposed in accordance with Article 10 or the objections raised in accordance with Article 12 by all the competent authorities concerned in respect to a notification for shipments destined to a pre-consented facility shall be subject to a time limit of seven working days after receipt of the information as referred to in Article 8(4), first subparagraph.
15. If one or more competent authorities wish to request additional information in accordance with Article 8(4), second subparagraph, in relation to a notification for shipments to a pre-consented facility, the time periods mentioned in that subparagraph, as well as in Article 8(5), first and second paragraphs, shall be shortened to one day for Article 8(4), second subparagraph, and Article 8(5), second subparagraph, and two days for Article 8(5), first subparagraph, respectively.
16. Notwithstanding paragraph 14, the competent authority of destination may decide that more time is needed in order to receive further information or documentation from the notifier.

In such cases, that competent authority shall, within seven working days of receipt of the information as referred to in the first subparagraph of Article 8(4), inform the notifier.

The total time needed to take one of the decisions as referred to in Article 9(1) shall not exceed 30 days following the date of submission of the notification in accordance with Article 5.

## Article 15

### *Additional provisions regarding interim recovery operations and interim disposal operations*

1. Where a shipment of waste is destined for an interim recovery operation or an interim disposal operation, all the facilities where subsequent interim as well as non-interim recovery operations and interim disposal operations are envisaged shall also be indicated in the notification document in addition to the initial interim recovery operation or interim disposal operation.
2. The competent authorities of dispatch and destination may give their consent to a shipment of waste destined for an interim recovery operation or interim disposal operation only if there are no grounds for objection, in accordance with Article 12, to the shipment(s) of waste to the facilities performing any subsequent interim or non-interim recovery operations or interim disposal operations.
3. Within one day of the receipt of the waste by the facility which carries out the interim recovery operation or interim disposal operation, that facility shall provide confirmation to the notifier that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document.
4. As soon as possible, but no later than 30 days after completion of the interim recovery operation or interim disposal operation, and no later than one calendar year, or the shorter period referred to in Article 9(5), after the receipt of the waste, the facility carrying out this operation shall, under its responsibility, provide a certificate that the operation has been completed.

That certificate shall be submitted and contained in, or annexed to, the movement document.

5. When a recovery or disposal facility which carries out an interim recovery operation or interim disposal operation delivers the waste for any subsequent interim or non-interim recovery or disposal operation to a facility located in the country of destination, it shall obtain as soon as possible and no later than one calendar year, or the shorter period referred to in Article 9(5), after delivery of the waste a certificate from that facility that the subsequent non-interim recovery or disposal operation has been completed.

The said facility that carries out an interim recovery or disposal operation shall promptly transmit, the relevant certificates to the notifier and the competent authorities concerned, identifying the shipments to which the certificates pertain.

6. When a delivery as described in paragraph 5 is made to a facility located in the initial country of dispatch or in another Member State, a new notification shall be required in accordance with this Regulation
7. When a delivery as described in paragraph 5 is made to a facility in a third country, a new notification shall be required in accordance with this Regulation and the provisions concerning the competent authorities concerned shall also apply to the initial competent authority of the initial country of dispatch.

## Article 16

### *Requirements following consent to a shipment*

1. After consent has been given to a notified shipment by the competent authorities concerned, all undertakings involved shall complete, the movement document, or, in the case of a general notification, the movement documents at the points indicated.

They shall ensure that the information in the movement document is made electronically available, including during the time of the transport, to the relevant authorities.

2. When the notifier has received written consent from the competent authorities of dispatch, destination and transit or may assume tacit consent in relation to the competent authorities of dispatch and transit, he or she shall provide the actual date of shipment and complete the movement document to the extent possible, at least one working day before the shipment starts.
3. The facility shall, within one day of receipt of the waste, provide confirmation to the notifier and the relevant authorities that the waste has been received.
4. The facility carrying out a non-interim recovery operation or disposal operation shall, as soon as possible and no later than 30 days after completion of that operation, and no later than one calendar year, or the shorter period referred to in Article 9(5), after receipt of the waste, certify, under its responsibility, that the non-interim recovery or disposal has been completed.
5. The certificate referred to in paragraph 4, shall be submitted to the notifier and the relevant authorities, either by the facility carrying out the operation, or, in case it has no access to a system as referred to in Article 26, via the notifier.

#### *Article 17*

#### *Changes in the shipment after consent*

1. If any essential change is made to the details and/or conditions of the consented shipment, the notifier shall inform, the competent authorities concerned and the consignee immediately and, where possible, before the shipment starts. Changes in the intended quantity, route, routing, date of shipment or carrier shall constitute essential changes.
2. In cases of essential changes referred to in paragraph 1, a new notification shall be submitted, unless all the competent authorities concerned indicate, that the proposed changes do not require a new notification.
3. Where essential changes referred to in paragraph 1 involve competent authorities other than those concerned in the original notification, a new notification shall be submitted.

## **Chapter 2**

#### *Article 18*

#### *General information requirements*

1. Waste referred to in Article 4(3) and (4) that is intended to be shipped shall be subject to the general information requirements set out in paragraphs 2 to 7 of this Article.
2. The person under the national jurisdiction of the country of dispatch who arranges the shipment shall complete and submit the relevant information contained in Annex VII, no later than one day before the shipment takes place.

3. The person referred to in paragraph 2 shall ensure that the information referred to in that paragraph is made electronically available, including during the time of the transport, to the relevant authorities.
4. The recovery facility or the laboratory and the consignee or, in case they have no access to a system referred to in Article 26, the person referred to in paragraph 2 shall, within one day of receipt of the waste, provide confirmation to the notifier and the relevant authorities that the waste has been received by completing the relevant information contained in Annex VII.
5. The recovery facility shall, as soon as possible and no later than 30 days after completion of the recovery operation, and no later than one calendar year after receipt of the waste, certify, under its responsibility, that the recovery has been completed by completing the relevant information contained in Annex VII.
6. The person referred to in paragraph 2 shall immediately inform the competent authority of dispatch in case a shipment has been prevented from import into the country of destination, rejected by the consignee or cannot be completed as originally intended.
7. The contract referred to in Annex VII between the person who arranges the shipment and the consignee for recovery of the waste shall be effective when the shipment starts. Where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, that contract shall include an obligation on the person who arranges the shipment or, where that person is not in a position to complete the shipment of waste or its recovery, on the consignee, to take the waste back or ensure its recovery in an alternative way; and to provide, if necessary, for its storage in the meantime.
8. The person who arranges the shipment or the consignee shall provide a copy of the contract referred to in paragraph 7 to the competent authority concerned upon its request.
9. The information required in Annex VII shall be available for inspection, enforcement, planning and statistical purposes by Member States and the Commission, in accordance with Article 26 and national legislation.
10. The information referred to in paragraph 2 shall be treated as confidential where this is required by Union or national legislation.
11. Where the waste is shipped between two establishments under the control of the same legal entity, the contract referred to in paragraph 7 may be replaced by a declaration by that legal entity. That declaration shall cover *mutatis mutandis* the obligations referred to in paragraph 7.



## **Chapter 3**

### **Mixing waste, documentation and access to information**

#### *Article 19*

##### *Prohibition on mixing waste during shipment*

From the start of the shipment to the receipt of the waste in a recovery or disposal facility, the waste, as specified in the notification or as referred to in Article 18, shall not be mixed with other waste.

#### *Article 20*

##### *Keeping of documents and information*

1. The competent authorities, the notifier, the consignee and the facility which receives the waste shall keep all documents sent to or by the competent authorities in relation to a notified shipment in the Union for at least five years from the date when the shipment starts. In the case of general notifications in accordance with Article 13, that obligation shall apply from the date when the last shipment starts.
2. Information given pursuant to Article 18(1) shall be kept in the Union for at least five years from the date when the shipment starts, by the person who arranges for the shipment, the consignee and the facility which receives the waste.

#### *Article 21*

##### *Public access to notifications*

The competent authorities of dispatch or destination shall make publicly available by appropriate means information on notifications of shipments they have consented or objected to, as well as on shipments of waste subject to the general information requirements, where such information is not confidential under national or Union legislation.

## Chapter 4

### Take-back obligations

#### Article 22

##### *Take-back when a shipment cannot be completed as intended*

1. Where any of the competent authorities concerned becomes aware that a shipment of waste, including its recovery or disposal, cannot be completed as intended in accordance with the terms of the notification and movement documents and/or contract referred to Article 6, it shall immediately inform the competent authority of dispatch thereof. Where a recovery or disposal facility rejects a shipment received, it shall immediately inform the competent authority of destination.
2. The competent authority of dispatch shall ensure that, except in cases referred to in paragraph 3, the waste in question is taken back to its area of jurisdiction or elsewhere within the country of dispatch by the notifier. The competent authority of dispatch shall identify the notifier following the order indicated in Article 3, point (6). Where that is not possible, that competent authority itself or a natural or legal person on its behalf shall comply with the provisions of this Article.

The take-back referred to in the first subparagraph shall take place within 90 days, or such other period as may be agreed between the competent authorities concerned, after the competent authority of dispatch becomes aware or has been advised by the competent authorities of destination or transit that the consented shipment of waste or its recovery or disposal cannot be completed as intended and has been informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

3. The take-back obligation set out in paragraph 2 shall not apply if the competent authorities of dispatch, transit and destination involved are satisfied that the waste can be recovered or disposed of in an alternative way in the country of destination or elsewhere by the notifier or, if that is not possible, by the competent authority of dispatch or by a natural or legal person on its behalf.

The take-back obligation set out in paragraph 2 shall not apply if the waste shipped has, in the course of the operation at the facility concerned, been irreversibly mixed with other waste before a competent authority concerned has become aware of the fact that the notified shipment cannot be completed as referred to in paragraph 1. Such mixture shall be recovered or disposed of in an alternative way in accordance with the first subparagraph of this paragraph.

4. In cases of take-back as referred to in paragraph 2, a new notification shall be submitted, unless the competent authorities concerned agree that a duly motivated request by the initial competent authority of dispatch is sufficient.

A new notification, where appropriate, shall be submitted by the initial notifier or, if that is not possible, by any other natural or legal persons identified in accordance with Article 3, point (6) following the order indicated in that provision, or, if that is also impossible, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

The competent authorities shall not oppose or object to the return of waste from a shipment that cannot be completed or to the related recovery and disposal operation.

5. In cases of alternative arrangements outside the initial country of destination as referred to in paragraph 3, a new notification, where appropriate, shall be submitted by the initial notifier or, if that is not possible, by any other natural or legal persons identified in accordance with Article 3, point (6) following the order indicated in that provision, or, if that is also impossible, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

When such a new notification is submitted by the notifier, it shall also be submitted to the competent authority of the initial country of dispatch.

6. In cases of alternative arrangements in the initial country of destination as referred to in paragraph 3, a new notification shall not be required and a duly motivated request shall suffice. Such a duly motivated request, seeking agreement to the alternative arrangement, shall be submitted to the competent authority of destination and dispatch by the initial notifier or, if that is not possible, to the competent authority of destination by the initial competent authority of dispatch.

7. If no new notification is to be submitted in accordance with paragraphs 4 or 6, a new movement document shall be completed in accordance with Article 15 or Article 16 by the initial notifier or, if that is not possible, by any other natural or legal persons identified in accordance with Article 3, point (6) following the order indicated in that provision or, if that is also not possible, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

Where a new notification is submitted by the initial competent authority of dispatch in accordance with paragraphs 4 or 5, a new financial guarantee or equivalent insurance shall not be required. Subject to the agreement of all competent authorities concerned, the movement document for the initial shipment may be used for the take-back.

8. The obligation of the notifier and the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility issues the certificate of non-interim recovery or disposal referred to in Article 16(4), or, where appropriate, in Article 15(5). In the case of interim recovery or disposal referred to in Article 7(6), the subsidiary obligation of the country of dispatch shall end when the facility issues the certificate referred to in Article 15(4).

Where a facility issues a certificate of recovery or disposal in such a way that it results in an illegal shipment, with the consequence that the financial guarantee is released, Article 24(4) and Article 25(2) shall apply.

9. Where waste from a shipment which cannot be completed, including its recovery or disposal, is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.
10. Where a notifier specified in Article 3, point (6)(a)(iv), fails to fulfil any of the take-back obligations set out in this Article and Article 23, the original waste producer, the new waste producer or the collector specified in Article 3, points (6)(a)(i), (ii) or (iii), respectively who authorised the dealer or broker to act on its behalf shall be deemed to be the notifier for the purposes of those take-back obligations.

### *Article 23*

#### *Costs for take-back when a shipment cannot be completed*

1. Costs arising from the return of waste from a shipment that cannot be completed, including costs of its transport, recovery or disposal pursuant to Article 22(2) or (3), and, as of the date on which the competent authority of dispatch becomes aware that a shipment of waste or its recovery or disposal cannot be completed, storage costs pursuant to Article 22(9) shall be charged in accordance with the following order:
  - (a) to the notifier following the order of the list in Article 3, point (6); or, if that is not possible to the person referred to in point (b);
  - (b) to other natural or legal persons as appropriate; or, if that is also impossible to the person referred to in point (c);
  - (c) to the competent authority of dispatch; or, if that is also impossible in accordance with point (d);
  - (d) as otherwise agreed between the competent authorities concerned.
2. This Article shall be without prejudice to Union and national provisions concerning liability.

### *Article 24*

#### *Take-back when a shipment is illegal*

1. Where a competent authority discovers a shipment that it considers to be an illegal shipment, it shall immediately inform the other competent authorities concerned.
2. Where the responsibility of an illegal shipment can be imputed to the notifier, the competent authority of dispatch shall ensure that the waste in question is:
  - (a) taken back by the notifier de facto, in order to arrange for its disposal or recovery; or, if no notification has been submitted, in accordance with point (b);
  - (b) taken back by the notifier de jure in order to arrange for its disposal or recovery; or, if that is not possible, in accordance with point (c);
  - (c) taken back by the competent authority of dispatch itself or by a natural or legal person on its behalf in order to arrange for its disposal or recovery; or, if that is also impossible, in accordance with point (d);
  - (d) alternatively recovered or disposed of in the country of destination or dispatch by the competent authority of dispatch itself or by a natural or legal person on its behalf; or, if that is also impossible, in accordance with point (e);
  - (e) alternatively recovered or disposed of in another country by the competent authority of dispatch itself or by a natural or legal person on its behalf if all the competent authorities concerned agree.

The take-back, recovery or disposal referred to in the first subparagraph shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of dispatch becomes aware of or has been advised by the competent authorities of destination or transit of the illegal shipment and informed of the reasons therefor. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

In cases of take-back as referred to in the first subparagraph, points (a), (b) and (c), a new notification shall be submitted, unless the competent authorities concerned agree that a duly motivated request by the initial competent authority of dispatch is sufficient.

The new notification shall be submitted by the person or authority listed in the first subparagraph, points (a), (b) or (c), and in accordance with that order.

The competent authorities shall not oppose or object to the return of waste of an illegal shipment. In the case of alternative arrangements as referred to in the first subparagraph, points (d) and (e), by the competent authority of dispatch, a new notification shall be submitted by the initial competent authority of dispatch or by a natural or legal person on its behalf unless the competent authorities concerned agree that a duly motivated request by that authority is sufficient.

3. Where a notifier specified in Article 3, point (6)(a)(iv), fails to fulfil any of the take-back obligations set out in this Article and Article 25, the original waste producer, the new waste producer or the collector specified in Article 3, points (6)(a)(i), (ii) or (iii), respectively who authorised that dealer or broker to act on its behalf shall be deemed to be the notifier for the purposes of those take-back obligations.
4. Where the responsibility of an illegal shipment can be imputed to the consignee, the competent authority of destination shall ensure that the waste in question is recovered or disposed of in an environmentally sound manner:
  - (a) by the consignee; or, if that is not possible, in accordance with point (b);
  - (b) by the competent authority itself or by a natural or legal person on its behalf.

The recovery or disposal referred to in the first subparagraph shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of destination becomes aware of or has been advised by the competent authorities of dispatch or transit of the illegal shipment and informed of the reason(s) therefore. Such advice may result from information submitted to the competent authorities of dispatch and transit, inter alia, by other competent authorities.

The competent authorities concerned shall cooperate, as necessary, in the recovery or disposal of the waste in accordance with this paragraph.

5. Where no new notification is to be submitted, a new movement document shall be completed in accordance with Articles 15 or 16 by the person responsible for take-back or, if that is not possible, by the initial competent authority of dispatch.

Where a new notification is submitted by the initial competent authority of dispatch, a new financial guarantee or equivalent insurance shall not be required.
6. In cases where responsibility for the illegal shipment cannot be imputed to either the notifier or the consignee, the competent authorities concerned shall cooperate to ensure that the waste in question is recovered or disposed of.
7. In case of interim recovery or disposal referred to in Article 7(6) where an illegal shipment is discovered after completion of the interim recovery operation or interim disposal operation, the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility has issued the certificate referred to in Article 15(4).

Where a facility issues a certificate of recovery or disposal in such a way that it results in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 4 of this Article and Article 25(2) shall apply.

8. Where the waste of an illegal shipment is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.
9. Articles 34 and 36 shall not apply in cases where illegal shipments are returned to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those Articles.
10. In the case of an illegal shipment referred to in Article 3, point (25)(g), the person who arranges the shipment shall be subject to the same obligations set out in this Article as the notifier.
11. This Article shall be without prejudice to Union and national provisions concerning liability.

#### *Article 25*

##### *Costs for take-back when a shipment is illegal*

1. Costs arising from the take-back of waste of an illegal shipment, including costs of its transport, recovery or disposal pursuant to Article 24(2) and, as of the date on which the competent authority of dispatch becomes aware that a shipment is illegal, storage costs pursuant to Article 24(8), shall be charged to:
  - (a) the notifier de facto, as referred to in Article 24(2), point (a) as identified following the order indicated in Article 3, point (6); or, if no notification has been submitted, in accordance with point (b);
  - (b) the notifier de jure or other natural or legal persons as appropriate; or, if that is not possible, in accordance with point (c);
  - (c) the competent authority of dispatch.
2. Costs arising from recovery or disposal pursuant to Article 24(4), including possible transport and storage costs pursuant to Article 24(7), shall be charged to the consignee; or, if that is not possible, to the competent authority of destination.
3. Costs arising from recovery or disposal pursuant to Article 24(6), including possible transport and storage costs pursuant to Article 24(8), shall be charged to:
  - (a) the notifier, as identified in accordance with the ranking established in Article 3, point (6), and/or the consignee, depending upon the decision by the competent authorities concerned; or, if that is not possible, in accordance with point (b);
  - (b) other natural or legal persons as appropriate; or, if that is also impossible, in accordance with point (c);
  - (c) the competent authorities of dispatch and destination.
4. In the case of an illegal shipment referred to in Article 3, point (25)(g), the person who arranges the shipment shall be subject to the same obligations set out in this Article as the notifier.

5. This Article shall be without prejudice to Union and national provisions concerning liability.

## **Chapter 5**

### **General administrative provisions**

#### *Article 26*

#### *Electronic submission and exchange of information*

1. The following information and documents shall be submitted and exchanged via electronic means, either via the central system referred to in paragraph 2, or via a national system in accordance with paragraph 3:
- (a) For waste as referred to in Article 4(1) and (2):
    - (i) notification of a planned shipment pursuant to Articles 5 and 13;
    - (ii) request for information and documentation pursuant to Articles 5 and 8;
    - (iii) submission of information and documentation pursuant to Articles 5 and 8;
    - (iv) information and decisions pursuant to Article 8;
    - (v) consent to a notified shipment and if applicable, the official notice of a withdrawal thereof pursuant to Article 9;
    - (vi) conditions for a shipment pursuant to Article 10;
    - (vii) objections in case the conditions in Article 11(2) are not fulfilled;
    - (viii) objections to a shipment pursuant to Article 12;
    - (ix) information on decisions to issue pre-consents to specific recovery facilities pursuant to Article 14(8) and (10);
    - (x) information and decisions pursuant to Article 14(11) and (15);
    - (xi) confirmation of receipt of the waste pursuant to Articles 15 and 16;
    - (xii) certificate for recovery or disposal of the waste pursuant to Articles 15 and 16;
    - (xiii) prior information regarding the actual start of the shipment pursuant to Article 16;
    - (xiv) the documents to accompany each transport in accordance with Article 16;
    - (xv) information on changes in the shipment after consent pursuant to Article 17;
    - (xvi) if feasible, consents and movement documents to be sent pursuant to Titles IV, V and VI;
  - (b) For waste referred to in Article 4(3), the information and documentation required under Article 18.

2. The Commission shall operate a central system that allows for the electronic submission and exchange of information and documents referred to in paragraph 1. That central system shall provide a hub that shall be used for the exchange in real time of the information and documents referred to in paragraph 1 between existing national systems for electronic data interchange.

That central system shall also be used by the competent authorities of the Member States that have not set up a national system for electronic data interchange, to submit and exchange directly, by electronic means, the information and documents referred to in paragraph 1.

That central system shall also provide for its interoperability with the environment for electronic freight transport information established under Regulation (EU) 2020/1056 of the European Parliament and of the Council<sup>61</sup>.

Within four years after adoption of the implementing act referred to in paragraph 4, that central system shall provide for its interoperability with the EU single window environment for customs.

3. Member States may operate their own national systems but shall ensure that those systems are interoperable with the central system referred to in paragraph 2, are operated in accordance with the requirements and rules laid down in the implementing acts adopted by the Commission pursuant to paragraph 4 and exchange information and documents with the central system in real time.
4. At the latest by [OP: Please insert the date of 12 months following the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish:
- (a) the requirements necessary for interoperability between the central system referred to in paragraph 2 and national systems, including a data model and a protocol for data exchange;
  - (b) any other technical and organisational requirements, including on security aspects and data governance, which are necessary for the practical implementation of the electronic submission and exchange of information and documents referred to in paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

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<sup>61</sup> Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33).



## *Article 27*

### *Language*

1. Any notification, information, documentation or other communication submitted pursuant to the provisions of this Title shall be provided in a language acceptable to the competent authorities concerned.
2. The notifier shall provide the competent authorities concerned with authorised translations of the documents referred to in paragraph 1 into a language which is acceptable to them, where they so request.

## *Article 28*

### *Disagreement on classification issues*

1. When deciding whether an object or substance resulting from a production process the primary aim of which is not the production of that object or substance shall be considered to be waste, Member States shall base their decision on the conditions laid down in Article 5 of Directive 2008/98/EC.

When deciding whether waste which has undergone a recycling or other recovery operation shall be considered to have ceased to be waste, Member States shall base their decision on the conditions laid down in Article 6 of Directive 2008/98/EC.

If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the object or substance shall be treated as if it were waste for the purpose of the shipment. This shall be without prejudice to the right of the country of destination to deal with the shipped material in accordance with its national legislation, following arrival of the shipped material and where such legislation is in accordance with Union or international law.

2. If the competent authorities of dispatch and of destination cannot agree on the classification of a waste as being listed in Annex III, Annex IIIA, Annex IIIB or Annex IV, or not listed in any of those Annexes, the shipment of that waste shall be subject to Article 4(1) and (2).
3. If the competent authorities of dispatch and of destination cannot agree on the classification of the waste treatment operation notified as being recovery or disposal, the provisions of this Regulation regarding disposal shall apply.
4. In order to facilitate the harmonised classification of waste listed in Annex III, Annex IIIA, Annex IIIB or Annex IV in the Union, the Commission is empowered to adopt delegated acts in accordance with Article 76 to supplement this Regulation by establishing criteria, such as contamination thresholds, on the basis of which certain wastes shall be classified in Annex III, IIIA, IIIB or IV.

The Commission is also empowered to adopt delegated acts in accordance with Article 76 to supplement this Regulation by establishing criteria to distinguish between used goods and waste, for specific categories of commodities for which this distinction is of particular importance for the export of waste from the Union.

*Article 29*  
*Administrative costs*

Appropriate and proportionate administrative costs for implementing the notification and supervision procedures and normal costs for appropriate analyses and inspections may be charged by authorities concerned to the notifier.

*Article 30*  
*Border-area agreements*

1. In exceptional cases, and where the specific geographical or demographical situation warrants such a step, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned.
2. The bilateral agreements referred to in paragraph 1 may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State.
3. Member States may also conclude bilateral agreements referred to in paragraph 1 with countries that are parties to the Agreement on the European Economic Area.
4. The agreements referred to in this Article shall be notified to the Commission before they take effect.

## **Chapter 6**

### **Shipments within the Union with transit via third countries**

*Article 31*  
*Shipments of waste destined for disposal*

Where a shipment of waste takes place within the Union with transit via one or more third countries, and the waste is destined for disposal, the competent authority of dispatch shall ask the competent authority in those third countries whether they wish to send their written consent to the planned shipment:

- (a) where the third country is a Party to the Basel Convention, within 60 days, unless it has waived this right in accordance with the terms of that Convention; or
- (b) where the third country is not a Party to the Basel Convention, within a period agreed between the competent authorities.

*Article 32*  
*Shipments of waste destined for recovery*

1. When a shipment of waste takes place within the Union with transit via one or more third countries to which the Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations ('the OECD Decision') does not apply, and the waste is destined for recovery, Article 31 shall apply.

2. When a shipment of waste takes place within the Union, including shipments between localities in the same Member State, with transit via one or more third countries to which the OECD Decision applies, and the waste is destined for recovery, the consent referred to in Article 9 may be provided tacitly, and if no objection has been raised or no conditions have been specified, the shipment may start 30 days after the date of submission of the notification by the notifier in accordance with Article 5.

## Title III

### Shipments exclusively within a Member State

#### *Article 33*

##### *Regime for shipments exclusively within a Member State*

1. Member States shall establish an appropriate regime for the supervision and control of shipments taking place exclusively within their national jurisdiction. That regime shall take account of the need for coherence with the Union system established by Titles II and VII.
2. Member States shall inform the Commission of their regime for supervision and control of shipments of waste. The Commission shall inform the other Member States thereof.

# Title IV

## Exports from the Union to third countries

### Chapter 1

#### Exports of waste for disposal

##### *Article 34* *Prohibition of exports*

1. Exports from the Union of waste destined for disposal are prohibited.
2. The prohibition in paragraph 1 shall not apply to exports of waste destined for disposal to EFTA countries which are also Parties to the Basel Convention.
3. By way of derogation from paragraph 2, exports of waste destined for disposal to an EFTA country that is a Party to the Basel Convention shall be prohibited:
  - (a) where the EFTA country prohibits imports of such waste;
  - (b) where the conditions laid down in Article 11(2) are not fulfilled;
  - (c) where the competent authority of dispatch has reason to believe that the waste will not be subject to environmentally sound management as referred to in Article 56 in the country of destination.
4. The prohibition paragraph 1 shall not apply to waste that is subject to a take-back obligation pursuant to Articles 22 or 24.

##### *Article 35* *Procedures for exports to EFTA countries*

1. Where waste is exported from the Union to an EFTA country that is a Party to the Basel Convention and destined for disposal in that country, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additional provisions set out in paragraphs 2 and 3.
2. The following adaptations shall apply:
  - (a) the notifier shall submit in accordance with Article 26 the notification request and the information and documentation in accordance with Article 5(3), and at the same time, provide it by post, fax or email with digital signature, to the competent authorities concerned in the countries of transit and destination outside the Union, unless those authorities are connected to the central system referred to in Article 26(2);
  - (b) the notifier shall submit in accordance with Article 26 any additional information and documentation in accordance with Article 5(4), and at the same time, provide it by post, fax or email with digital signature, to the competent authorities concerned in the countries of transit and destination outside the Union, unless those authorities are connected to the central system referred to in Article 26(2);
  - (c) the competent authority of dispatch shall inform the competent authorities concerned in the countries of transit and destination outside the Union of any request for information and documentation from its side and of its decision

regarding the planned shipment, by post, fax or email with digital signature, unless those competent authorities are connected to the central system referred to in Article 26(2);

- (d) the competent authority of transit outside the Union shall have 60 days after the date of transmission of its acknowledgement of receipt of the notification to provide, where the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;
- (e) the competent authority of dispatch in the Union shall take the decision to consent to the shipment as referred to in Article 9 only after having received written consent from the competent authority of destination and, where appropriate, the tacit or written consent of the competent authority of transit outside the Union, and not earlier than 61 days after the date of transmission of the acknowledgement of receipt of the notification by the competent authority of transit, unless the competent authority of dispatch has the written consent of the other competent authorities concerned, in which case it may take the decision as referred to in Article 9 before that time limit.

3. The following additional provisions shall apply:

- (a) the competent authority of transit in the Union shall send an acknowledgment of receipt of the notification to the notifier and copies to the other competent authorities concerned;
- (b) the competent authorities of dispatch and, where appropriate, the competent authorities of transit in the Union shall ensure that the customs office of export and the customs office of exit are informed of their decisions to consent to the shipment;
- (c) a copy of the movement document shall be provided by the carrier to the customs office of export and the customs office of exit either by post, fax or email with digital signature, or, where the customs office of export has access to it, via the central system referred to in Article 26(2);
- (d) as soon as the waste has left the Union, the customs office of exit shall inform the competent authority of dispatch in the Union that the waste has left the Union;
- (e) where, 42 days after the waste has left the Union, the competent authority of dispatch in the Union has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination thereof;
- (f) the contract referred to in Article 6 shall contain the following terms and conditions:
  - (i) where a facility issues an incorrect certificate of disposal with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner;
  - (ii) the facility shall, within three days of receipt of the waste for disposal, send signed copies of the completed movement document, except for the

certificate of disposal referred to in point (iii), to the notifier and the competent authorities concerned;

(iii) the facility shall, as soon as possible but no later than 30 days after completion of the disposal and in any case no later than one calendar year after the receipt of the waste under its responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing that certification to the notifier and to the competent authorities concerned;

(g) the notifier shall, within three working days of receipt of the copies referred to in point (f)(ii) and (f)(iii), make the information contained in those copies electronically available in accordance with Article 26.

4. The shipment may take place only if all the following conditions are fulfilled:

(a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit outside the Union and if the conditions laid down in those decision have been met;

(b) environmentally sound management of the waste as referred to in Article 56, is ensured.

5. Where waste is exported, it shall be destined for disposal operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

6. Where a customs office of export or a customs office of exit discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office thereof. That competent authority shall:

(a) without delay inform the competent authority of dispatch in the Union of the illegal shipment; and

(b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

## **Chapter 2**

### **Exports of waste for recovery**

#### **SECTION 1**

#### **EXPORTS OF HAZARDOUS AND CERTAIN OTHER WASTE TO COUNTRIES TO WHICH THE OECD DECISION DOES NOT APPLY**

##### *Article 36*

##### *Prohibition of exports*

1. Exports from the Union of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:

(a) wastes listed as hazardous in Part 1 of Annex V to this Regulation;

- (b) wastes listed as hazardous in the list of waste referred to in Article 7 of Directive 2008/98/EC;
  - (c) wastes listed in Part 2 of Annex V to this Regulation;
  - (d) hazardous wastes not classified under one single entry in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC;
  - (e) mixtures of hazardous wastes and mixtures of hazardous wastes with non-hazardous wastes not classified under one single entry in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC;
  - (f) wastes that the country of destination has notified as hazardous under Article 3 of the Basel Convention;
  - (g) wastes the import of which has been prohibited by the country of destination;
  - (h) wastes which the competent authority of dispatch has reason to believe will not be managed in an environmentally sound manner as referred to in Article 56, in the country of destination concerned;
  - (i) waste referred to in Article 4(5).
2. Paragraph 1 shall not apply to waste that is subject to a take-back obligation pursuant to Articles 22 or 24.
  3. Member States may, in exceptional cases, provide, on the basis of documentary evidence provided by the notifier, that a specific hazardous waste listed in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC is excluded from the export prohibition referred to in paragraph 1, where it does not display any of the properties listed in Annex III to Directive 2008/98/EC, taking into account the criteria and applicable cut-off values and concentration limits for the classification of waste as hazardous as specified that Annex. Where a hazardous property of a waste has been assessed by a test and by using the concentrations of hazardous substances as indicated in Annex III to Directive 2008/98/EC, the results of the test shall prevail.
  4. The fact that waste is not listed as hazardous in Annex V or in the list of waste as referred to in Article 7 of Directive 2008/98/EC, or that it is listed in Part 1, List B of Annex V, shall not preclude, in exceptional cases, characterisation of such waste as hazardous and therefore subject to the export prohibition if it displays any of the properties listed in Annex III to Directive 2008/98/EC, taking into account the criteria and applicable cut-off values and concentration limits for the classification of waste as hazardous, specified therein. Where a hazardous property of a waste has been assessed by a test and by using the concentrations of hazardous substances as indicated in Annex III to Directive 2008/98/EC, the results of the test shall prevail.
  5. In the cases referred to in paragraphs 3 and 4, the Member State concerned shall inform the envisaged country of destination prior to taking a decision to consent to planned shipments to that country. Member States shall notify such cases to the Commission before the end of each calendar year. The Commission shall forward that information to all Member States and to the Secretariat of the Basel Convention. On the basis of the information provided, the Commission may make comments and, where appropriate, adapt Annex V to this Regulation in accordance with Article 72.



**SECTION 2**  
**EXPORTS OF NON-HAZARDOUS WASTE TO COUNTRIES TO WHICH THE OECD**  
**DECISION DOES NOT APPLY**

*Article 37*  
*Prohibition of exports*

1. Exports from the Union of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:
  - (a) waste listed in Annex III, Annex IIIA or Annex IIIB;
  - (b) non-hazardous waste included in the list of waste referred to in Article 7 of Directive 2008/98/EC, when not already listed in Annex III, Annex IIIA or Annex IIIB.
2. Paragraph 1 shall not apply to exports of waste destined for recovery to a country included in the list of countries established in accordance with Article 38 for the waste specified in that list.

Such export may only take place on the condition that the waste is destined to a facility licensed under the domestic legislation of the country concerned, to undertake recovery operations for that waste. In addition, such export shall be subject to the general information requirements laid down in Article 18 or, in case the country concerned so indicates in the request referred to in Article 39, the procedure of prior written notification and consent referred to in Article 35.

*Article 38*  
*Establishment of a list of countries to which exports of non-hazardous waste from the Union for recovery are authorised*

1. The Commission is empowered to adopt a delegated act in accordance with Article 76 to supplement this Regulation by establishing a list of countries to which the OECD Decision does not apply and to which exports of non-hazardous waste from the Union for recovery are authorised (“list of countries to which exports are authorised”). This list shall include countries which have submitted a request pursuant to Article 39(1) and have demonstrated compliance with the requirements set out in Article 39(3), based on an assessment carried out by the Commission pursuant to Article 40.
2. The list referred to in paragraph 1 shall include the following information:
  - (a) the name of the countries to which export of non-hazardous waste from the Union for recovery is authorised;
  - (b) the specific waste(s) that are authorised for export from the Union to each country referred to in point (a);
  - (c) information, such as an internet address, allowing access to a list of facilities which are licensed under the domestic legislation of each country referred to in point (a) to carry out the recovery of the waste referred to in point (b);
  - (d) where available, information on any specific control procedure applying under the domestic legislation of each country referred to in point (a) to the import of

the waste(s) referred to in point (b), including an indication of whether such import is subject to the procedure of prior written notification and consent referred to in Article 35.

3. The list referred to in paragraph 1 shall be adopted by [*OP Please insert the date 30 months after the date of entry into force of this Regulation*], unless no country submits a request pursuant to Article 39(1) or no country complies with the requirements set out in Article 39(3) at that time.

By [*OP Please insert the date three months after the date of entry into force of this Regulation*], the Commission shall contact all countries to which the OECD Decision does not apply, to provide them with the necessary information on the possibility for those countries to be included in the list of countries to which exports are authorised.

In order to be included in the list of countries to which exports are authorised adopted by [*OP Please insert the date 30 months after the date of entry into force of this Regulation*], the countries to which the OECD Decision does not apply shall submit their request pursuant to Article 39(1) by [*OP Please insert the date 9 months after the date of entry into force of this Regulation*].

4. The Commission shall regularly, and at least every two years following its establishment, update the list of countries to which exports are authorised, in order to:

- (a) add a country whose inclusion is decided in accordance with paragraph 1;
- (b) remove a country which ceases to comply with the requirements set out in Article 39;
- (c) update the information referred to in paragraph 2, points (b), (c) and (d), based on a request received from the country concerned and, if that request concerns the addition of new waste, provided that the country concerned has demonstrated compliance with the requirements set out in Article 39 with respect to the new waste in question;
- (d) include or remove any other element relevant to ensure that the list contains accurate and updated information.

5. In the event of any change to the information provided to the Commission under Article 39(3), the countries included in the list referred to in paragraph 1 shall provide an update of the information specified in the form set out in Annex VIII, together with relevant supporting evidence without delay.

The countries included in the list referred to in paragraph 1 shall in any case, on the fifth year after their initial inclusion, provide to the Commission an update of the information specified in the form set out in Annex VIII, together with relevant supporting evidence.

After receiving information and evidence referred to in the first and second subparagraphs of this paragraph, the Commission may request additional information from the country concerned to demonstrate that it continues to comply with the requirements set out in Article 39.

6. Where information becomes available which shows in a plausible manner that the requirements set out in Article 39 are no longer fulfilled for a country which is already included in the list referred to in paragraph 1, the Commission shall invite that country to provide its views on that information, within a maximum period of

two months from its invitation to provide comments, together with relevant supporting evidence demonstrating continued compliance with those requirements. That period may be extended by an additional period of two months where the country concerned makes a reasoned request for such extension.

7. Where the country concerned does not provide its views and the requested supporting evidence within the time limit referred to in the first subparagraph of this paragraph, or where the provided evidence is insufficient to demonstrate continued compliance with the requirements set out in Article 39, the Commission shall remove that country from the list without undue delay.
8. The Commission may at any time contact a country included in the list referred to in paragraph 1 to obtain information which is relevant to ensure that this country continues to comply with the requirements set out in Article 39.

#### *Article 39*

##### *Requirements for inclusion in the list of countries to which exports are authorised*

1. Countries to which the OECD Decision does not apply and which intend to receive certain waste referred to in Article 37(1) from the Union for recovery shall submit a request to the Commission indicating their willingness to receive that waste and to be included in the list referred to in Article 38. Such request and all related documentation or other communication shall be provided in English language.
2. The request referred to in paragraph 1 shall be submitted using the form set out in Annex VIII and shall contain all the information specified therein.
3. The country making the request shall demonstrate that it has put in place and implements all necessary measures to ensure that the waste concerned will be managed in an environmentally sound manner as referred to in Article 56.

To this end, the country making the request shall demonstrate that:

- (a) it has a comprehensive waste management strategy or plan that covers its entire territory and shows its ability and readiness to ensure the environmentally sound management of waste. That strategy or plan shall include at least the following elements:
  - (i) amount of total waste generated in the country on a yearly basis, as well as the amount of waste(s) covered by the scope of this request (“waste concerned by the request”), and estimations on how these amounts would develop in the next 10 years;
  - (ii) an estimation of the country’s current treatment capacity for waste in general, as well as an estimation of the country’s treatment capacity for the waste(s) concerned by the request, and an evaluation of how these capacities would develop in the next 10 years;
  - (iii) the proportion of domestic waste that is separately collected, as well as any objectives and measures to increase this rate in the future;
  - (iv) an indication of the proportion of the domestic waste concerned by the request which is landfilled, as well as any objectives and measures to decrease that proportion in the future;

- (v) an indication of the proportion of the domestic waste which is recycled, and possible objectives and measures to increase that proportion in the future;
  - (vi) information on the amount of waste which is littered and on measures taken to prevent and clean up litter;
  - (vii) a strategy on how to ensure the environmentally sound management of waste imported into its territory, including the possible impact of such import on the management of waste generated domestically;
  - (viii) information on the methodology used to calculate the data referred to in points (i) to (vi);
- (b) it has a legal framework for waste management in place, which includes at least the following elements:
- (i) permitting or licensing systems for waste treatment facilities;
  - (ii) permitting or licensing systems for transport of waste;
  - (iii) provisions designed to ensure that the residual waste generated through the recovery operation for the wastes concerned by the request is managed in an environmentally sound manner as referred to in Article 56;
  - (iv) adequate pollution controls applying to waste management operations, including emission limits for the protection of air, soil and water and measures to reduce the emissions of greenhouse gases from those operations;
  - (v) provisions on enforcement, inspection and penalties designed to ensure the implementation of domestic and international requirements on waste management and waste shipment;
- (c) it is a Party to the multilateral environmental agreements referred to in Annex VIII, and has taken the necessary measures to implement its obligations under those agreements;
- (d) it has put in place a strategy for enforcement of domestic legislation on waste management and waste shipment, covering control and monitoring measures, including information on the number of inspections of shipments of waste and of waste management facilities carried out and on penalties imposed in cases of infringements of the relevant domestic rules.

#### Article 40

##### *Assessment of the request for inclusion in the list of countries to which exports are authorised*

1. The Commission shall assess the requests submitted pursuant to Article 39 without undue delay and, if it is satisfied that the requirements set out in that Article are complied with, it shall include the country making the request in the list of countries to which exports are authorised. The assessment shall be based on the information and supporting evidence provided by the country making the request, as well as other relevant information, and aim to determine if the country making the request has put in place and implements all necessary measures to ensure that the waste concerned will be managed in an environmentally sound manner as referred to in Article 56. In order to perform this assessment, the Commission shall use, as points of reference, the relevant provisions in the legislation and guidance referred to in Annex IX.
2. Where, during the course of its assessment, the Commission considers that the information provided by the country making the request is incomplete or insufficient to demonstrate compliance with the requirements set out in Article 39, it shall give that country an opportunity to provide additional information within a maximum period of three months. That period may be extended by an additional period of three months where the requesting country makes a reasoned request for such extension.
3. Where the country making the request does not provide the additional information within the time limit referred to in paragraph 2 of this Article, or where the provided additional information is still considered to be incomplete or insufficient to demonstrate compliance with the requirements set out in Article 39, the Commission shall inform without undue delay the country making the request that it cannot be included in the list of countries to which exports are authorised and that its request will no longer be processed. In that case, the Commission shall also inform the country making the request of the reasons for that conclusion. This is without prejudice to the possibility of the country making the request to submit a new request pursuant to Article 39.

### SECTION 3

#### EXPORTS TO COUNTRIES TO WHICH THE OECD DECISION APPLIES

#### Article 41

##### *General regime for exports of waste*

1. Where waste listed in Annex III, IIIA, IIIB or IV, waste not classified or mixtures of wastes not classified under one entry in either Annex III or Annex IV are exported from the Union and destined for recovery in countries to which the OECD Decision applies, with or without transit through countries to which the OECD Decision applies, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additional provisions listed in paragraphs 2, 3 and 5.
2. The following adaptations shall apply:
  - (a) mixtures of wastes listed in Annex IIIA destined for an interim operation shall be subject to the procedure of prior written notification and consent if any subsequent interim or non-interim recovery operation or disposal operation is to take place in a country to which the OECD Decision does not apply;

- (b) waste listed in Annex IIIB shall be subject to the procedure of prior written notification and consent;
  - (c) the export of waste referred to in Article 4(5) shall be prohibited;
  - (d) the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of destination outside the Union.
3. As regards exports of waste listed in Annex IV, the adaptations and additional provisions listed in Article 35(2) and Article 35(3), points (a) to (e), shall apply.

In addition, the contract referred to in Article 6 shall contain the following terms and conditions:

- (a) where a facility issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner;
- (b) the facility shall, within three days of receipt of the waste for recovery, send signed copies of the completed movement document, except for the certificate of recovery referred to in point (c), to the notifier and the competent authorities concerned;
- (c) the facility shall, as soon as possible but no later than 30 days after completion of the recovery, and in any case no later than one calendar year after the receipt of the waste, under its responsibility, certify that the recovery has been completed and shall send signed copies of the movement document containing that certification to the notifier and to the competent authorities concerned.

The notifier shall, within three working days of receipt of the copies referred to in points (b) and (c), make the information contained in those copies available via electronic means in accordance with Article 26.

4. The shipment of waste subject to the prior written notification and consent may take place only if all the following conditions are fulfilled:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or, the competent authorities of destination and transit outside the Union have provided tacit consent or such tacit consent can be assumed and the conditions laid down in the respective decisions have been met;
  - (b) Article 35(4), points (b), (c) and (d), is complied with.
5. Where an export as referred to in paragraph 1 of waste listed in Annex IV is in transit through a country to which the OECD Decision does not apply, the following adaptations shall apply:
- (a) the competent authority of transit of the country to which the OECD Decision does not apply shall have 60 days after the date of transmission of its acknowledgement of receipt of the notification, to provide, where the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;

- (b) the competent authority of dispatch in the Union shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from the competent authority of transit of the country to which the OECD Decision does not apply, and not earlier than 61 days after the date of transmission of the acknowledgement of receipt of the competent authority of transit, unless the competent authority of dispatch has received the written consent of the other competent authorities concerned, in which case it may take the decision as referred to in Article 9 before that time limit.
6. Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.
  7. Where a customs office of export or a customs office of exit discovers an illegal shipment, it shall without delay inform the competent authority in the country of that customs office thereof. That competent authority shall:
    - (a) without delay inform the competent authority of dispatch in the Union of the illegal shipment; and
    - (b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

#### *Article 42*

##### *Monitoring of export and safeguard procedure*

1. The Commission shall monitor the levels of export of waste from the Union to countries to which the OECD Decision applies, with a view to ensuring that such exports do not lead to serious environmental or human health damages in the country of destination. As part of such monitoring, the Commission shall assess requests from natural or legal persons which are accompanied by relevant information and data showing that export of waste from the Union leads to serious environmental or human health damages in a country to which the OECD Decision applies.
2. In cases where the export of waste from the Union to a country to which the OECD Decision applies has considerably increased within a short period of time, and there is insufficient evidence available demonstrating that the country concerned has the ability to recover this waste in an environmentally sound manner as referred to in Article 56, the Commission shall request the competent authorities of the country concerned to provide, within 60 days, information on the conditions under which the waste in question is recovered and the ability of the country concerned to manage the waste in question. The Commission may grant an extension of this time limit if the country concerned makes a reasoned request for an extension thereof.
3. The request referred to in paragraph 2 shall aim to verify that the country concerned has:
  - (a) put in place and implemented an adequate legal framework for the import and management of the waste concerned, as well as adequate measures to ensure the environmentally sound management of the residual waste generated through the recovery of the waste concerned;

- (b) sufficient capacity in its territory allowing the waste concerned to be managed in an environmentally sound manner, taking into consideration the increased volume of waste imported into its territory;
  - (c) put in place an adequate strategy to address the possible negative impact of an increase in the import of the waste concerned on the collection and management of the waste generated domestically;
  - (d) put in place and implemented adequate enforcement measures to address possible illegal shipments or treatment of the waste concerned.
4. Where, further to the request referred to in paragraph 2, the country concerned does not provide sufficient evidence as referred to in paragraph 3 that the waste is managed in an environmentally sound manner in accordance with Article 56, the Commission is empowered to adopt delegated acts in accordance with Article 76 to supplement this Regulation by prohibiting the export of the waste concerned to this country.

This prohibition shall be lifted by the Commission, when the Commission has sufficient evidence that the waste concerned will be managed in an environmentally sound manner.

## **Chapter 3**

### **Additional obligations**

#### *Article 43*

#### *Obligations on exporters*

1. A natural or legal person shall only export waste from the Union if it can demonstrate that the facilities which are to receive the waste in the country of destination will manage it in an environmentally sound manner as referred to in Article 56.
2. In order to fulfil the obligation referred to in paragraph 1, a natural or legal person intending to export waste from the Union shall ensure that the facilities which will manage the waste in the country of destination have been subject to an audit by an independent and accredited third party with appropriate qualifications.
3. The audit referred to in paragraph 2 shall verify compliance of the facility concerned with the criteria laid down in Annex X. A legal or natural person shall not export waste to a facility which does not comply with those criteria.
4. A natural or legal person intending to export waste shall ensure that the facility which will manage the waste in the country of destination has been subject to an audit referred to in paragraph 2 prior to exporting waste to the facility concerned and that the audit is repeated at regular intervals, following a risk-based approach, with a minimum frequency of every three years after the first audit.

A natural or legal person exporting waste from the Union shall also carry out an ad-hoc audit without delay in case it receives plausible information that a facility no longer complies with the criteria laid down in Annex X.



5. A natural or legal person that has commissioned or carried out an audit for a given facility in accordance with paragraph 2 shall ensure that such audit be made available to other natural or legal person intending to export waste to the facility in question, under fair commercial conditions.
6. Upon request by a competent authority or an authority involved in inspections, a natural or legal person shall provide documentary evidence that audits as referred to in paragraph 2 have been carried out in all facilities to which they are exporting the waste in question. Such documentary evidence shall be provided in a language acceptable to the competent authorities concerned.
7. Natural or legal persons exporting waste outside the Union shall on a yearly basis make information on how they comply with their obligations under this Article publicly available by electronic means.
8. Where an international agreement between the Union and a third country to which the OECD Decision applies recognises that the facilities in that third country will manage waste in an environmentally sound manner, in accordance with the criteria laid down in Annex X, natural and legal persons which intend to export waste to that third country shall be exempted from the obligation in paragraph 2.
9. Upon request by a competent authority or an authority involved in inspections, a natural or legal person that is exempted pursuant to paragraph 8, shall provide documentary evidence of the relevant international agreement as mentioned in that paragraph in a language acceptable to the competent authorities concerned.

#### *Article 44*

#### *Obligations on Member States of export*

1. Member States shall take all the measures necessary to ensure that legal and natural persons under their national jurisdiction do not export waste in cases where the conditions laid down in Articles 36 to 43 for such export are not met.
2. Member States shall carry out regular verifications, following a risk-based approach, to ensure that natural and legal persons exporting waste from the Union comply with the obligations referred to in Article 43.

Where Member States are in possession of plausible information, which indicates that natural or legal persons exporting waste from the Union are not complying with their obligations under Article 43 they shall carry out the necessary verifications.

## Chapter 4

### General provisions

#### *Article 45*

#### *Exports to the Antarctic*

Exports of waste from the Union to the Antarctic shall be prohibited.

#### *Article 46*

#### *Exports to overseas countries or territories*

1. Exports from the Union to an overseas country or territory of waste destined for disposal in that country or territory shall be prohibited.
2. As regards exports of waste destined for recovery in overseas countries or territories, the prohibition set out in Article 36 shall apply *mutatis mutandis*.
3. As regards exports of waste destined for recovery in overseas countries or territories not covered by the prohibition set out in Article 36, the provisions of Title II shall apply *mutatis mutandis*.

# Title V

## Imports into the Union from third countries

### Chapter 1

#### Imports of waste for disposal

##### *Article 47* *Prohibition of imports*

1. Imports into the Union of waste destined for disposal shall be prohibited except imports coming from:
  - (a) countries which are Parties to the Basel Convention;
  - (b) other countries with which the Union, or the Union and its Member States, have concluded bilateral or multilateral agreements or arrangements compatible with Union legislation and in accordance with Article 11 of the Basel Convention;
  - (c) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or
  - (d) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (b) or (c) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.
2. In exceptional cases, Member States may conclude bilateral agreements and arrangements for the disposal of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner in the country of dispatch.

These agreements and arrangements shall:

  - (a) be compatible with Union legislation and in accordance with Article 11 of the Basel Convention.
  - (b) guarantee that the disposal operations will be carried out in an authorised facility and will comply with the requirements for environmentally sound management as referred to in Article 56; and
  - (c) guarantee that the waste is produced in the country of dispatch and that disposal will be carried out exclusively in the Member State which has concluded the agreement or arrangement.
  - (d) be notified to the Commission prior to their conclusion or, in emergency situations, at the latest up to one month after conclusion.
3. Bilateral or multilateral agreements or arrangements referred to in paragraph 1, points (b) and (c), shall be based on the procedural requirements of Article 48.
4. The countries referred to in paragraph 1, points (a), (b) and (c), shall be required to present a prior duly motivated request to the competent authority of the Member State of destination on the basis that they do not have and cannot reasonably acquire the technical capacity and the necessary facilities in order to dispose of the waste in an environmentally sound manner as referred to in Article 56.

*Article 48*  
*Procedural requirements for imports*

1. Where waste destined for disposal is imported into the Union from countries that are Parties to the Basel Convention, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additional provisions set out in paragraphs 2 and 3.
2. The following adaptations shall apply:
  - (a) the notifier shall submit the notification request in accordance with Article 26, unless the notifier is not established within the Union and has no access to a system referred to in Article 26, in which case the notification request, and in particular the information and documentation referred to in Article 5(3) shall be provided to the competent authorities concerned by post, fax or email with digital signature;
  - (b) the notifier shall submit any additional information, and in particular the information and documentation referred to in Article 5(4) in accordance with Article 26, unless the notifier is not established within the Union and has no access to a system referred to in Article 26, in which case that information shall be provided by post, fax or email with digital signature, to the competent authorities concerned;
  - (c) the notifier, or where the notifier is not established within the Union and has no access to a system referred to in Article 26, the competent authority of destination in the Union, shall ensure that all relevant information is included in that system;
  - (d) the competent authorities of transit and destination in the Union shall inform the competent authorities concerned in the countries of transit and dispatch outside the Union of any request for information and documentation from their side and of their decision on the planned shipment, by post, fax or email with digital signature, unless the competent authorities in the countries concerned have access to the central system referred to in Article 26(2);
  - (e) the competent authority of transit outside the Union shall have 60 days after the date of transmission of its acknowledgement of receipt of the notification, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;
  - (f) in the cases referred to in Article 46(1), point (d) involving situations of crisis, peacemaking, peacekeeping or war, the consent of the competent authorities of dispatch shall not be required.
3. The following additional provisions shall apply:
  - (a) the competent authority of transit in the Union shall provide an acknowledgement of receipt of the notification to the notifier, with copies to the competent authorities concerned;
  - (b) the competent authorities of destination and, where appropriate, transit in the Union shall ensure that the customs office of entry is informed of their decisions to consent to the shipment;

- (c) a copy of the movement document shall be delivered by the carrier to the customs office of entry either by post, fax or email with digital signature, or, where the customs office of entry has access to it, via the central system referred to in Article 26(2); and
  - (d) as soon as the waste has been released for a customs procedure by the customs authorities at entry, the customs office of entry shall inform the competent authorities of destination and transit in the Union that the waste has entered the Union.
4. The shipment may take place only if all the following conditions are fulfilled:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit and the conditions laid down in that consent have been met;
  - (b) a contract between the notifier and the consignee as referred to in Article 6 has been concluded and is effective;
  - (c) a financial guarantee or equivalent insurance as referred to in Article 7 has been established and is effective; and
  - (d) environmentally sound management as referred to in Article 33 is ensured.
5. Where a customs office of entry discovers an illegal shipment, it shall without delay inform the competent authority in the country of that customs office. That competent authority shall:
- (a) without delay inform the competent authority of destination in the Union of the illegal shipment, after which that competent authority shall inform the competent authority of dispatch outside the Union; and
  - (b) ensure detention of the waste until the competent authority of dispatch outside the Union has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.
6. Where waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations is shipped, by those armed forces or relief organisations or on their behalf, any competent authority of transit and the competent authority of destination in the Union shall be informed in advance concerning the shipment and its destination.

## **Chapter 2**

### **Imports of waste for recovery**

#### *Article 49*

#### *Prohibition of imports*

1. All imports into the Union of waste destined for recovery shall be prohibited except for imports coming from:
- (a) countries to which the OECD Decision applies;
  - (b) other countries which are Parties to the Basel Convention;
  - (c) other countries with which the Union, or the Union and its Member States, have concluded bilateral or multilateral agreements or arrangements

compatible with Union legislation and in accordance with Article 11 of the Basel Convention;

- (d) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or
  - (e) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (c) or (d) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.
2. In exceptional cases, individual Member States may conclude bilateral agreements and arrangements for the recovery of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner, in the country of dispatch.

In such cases Article 47(2), second subparagraph, shall apply.

3. Bilateral or multilateral agreements or arrangements entered into in accordance with paragraph 1, points (c) and (d), shall be based on the procedural requirements set out in Article 48 in so far as may be relevant.

#### *Article 50*

##### *Procedural requirements for imports from a country to which the OECD Decision applies*

1. Where waste destined for recovery is imported into the Union from countries and through countries to which the OECD Decision applies, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additional provisions set out in paragraphs 2 and 3.
2. The following adaptations shall apply:
- (a) the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of dispatch outside the Union;
  - (b) in the cases referred to in Article 49(1), point(e), involving situations of crisis, peacemaking, peacekeeping or war, the consent of the competent authorities of dispatch shall not be required.
3. The following additional provisions shall apply: Article 48(2), points (a) to (e), and Article 48(3), points (b), (c) and (d).
4. The shipment may take place only if all the following conditions are fulfilled:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or tacit consent from the competent authority of dispatch outside the Union has been provided or can be assumed and the conditions laid down in the respective decisions have been met;
  - (b) a contract between the notifier and the consignee as referred to in Article 6 has been concluded and is effective;
  - (c) a financial guarantee or equivalent insurance as referred to in Article 7 has been established and is effective; and
  - (d) environmentally sound management as referred to in Article 56 is ensured.

5. Where a customs office of entry discovers an illegal shipment, it shall without delay inform the competent authority in the country of that customs office. That competent authority shall:
  - (a) without delay inform the competent authority of destination in the Union after which that competent authority shall inform the competent authority of dispatch outside the Union of the illegal shipment; and
  - (b) ensure detention of the waste until the competent authority of dispatch outside the Union has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

#### *Article 51*

*Procedural requirements for imports from or through a country to which the OECD Decision does not apply*

Where waste destined for recovery is imported into the Union from a country to which the OECD Decision does not apply or through any country to which the OECD Decision does not apply and which is also Party to the Basel Convention, Article 48 shall apply *mutatis mutandis*.

### **Chapter 3 Additional obligations**

#### *Article 52*

*Obligations of Member States of import*

1. In the case of imports into the Union, the competent authority of destination in the Union shall require and take the necessary steps to ensure that any waste shipped into its area of jurisdiction is managed without endangering human health and without using processes or methods which could harm the environment, and in accordance with Article 13 of Directive 2008/98/EC and other Union legislation on waste throughout the period of shipment, including recovery or disposal in the country of destination.
2. The competent authority referred to in paragraph 1 shall also prohibit imports of waste from third countries where it has reason to believe that the waste will not be managed in accordance with the requirements set out in paragraph 1.

### **Chapter 4 Imports from overseas countries or territories**

#### *Article 53*

*Imports from overseas countries or territories*

1. Where waste is imported into the Union from overseas countries or territories, Title II shall apply *mutatis mutandis*.

2. An overseas country or territory and the Member State to which it is linked may apply national procedures of that Member State to shipments from the overseas country or territory to that Member State in case no other countries are involved in the shipment as transit country.
3. Member States which apply paragraph 2 shall notify the Commission of the national procedures applied.



## Title VI

### Transit through the Union from and to third countries

#### *Article 54*

#### *Transit through the Union of waste destined for disposal*

Where waste destined for disposal is shipped through Member States from and to third countries, Article 48 shall apply *mutatis mutandis*, with the following adaptations and additional provisions:

- (a) the first and last competent authority of transit in the Union shall, where appropriate, ensure that the customs office of entry and the customs office of exit are informed of their respective decisions to consent to the shipment or, if they have provided tacit consent, of the acknowledgement in accordance with Article 48(3), point (a);
- (b) the customs office of exit shall, as soon as the waste has left the Union, inform the competent authority(ies) of transit in the Union that the waste has left the Union.

#### *Article 55*

#### *Transit through the Union of waste destined for recovery*

1. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision does not apply, Article 54 shall apply *mutatis mutandis*.
2. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision applies, Article 50 shall apply *mutatis mutandis*, with the following adaptations and additional provisions:
  - (a) the first and last competent authority of transit in the Union shall, where appropriate, ensure that the customs office of entry and the customs office of exit are informed of their respective decisions to consent to the shipment or, if they have provided tacit consent, of the acknowledgement in accordance with Article 48(3), point (a);
  - (b) the customs office of exit shall, as soon as the waste has left the Union, inform the competent authorities of transit in the Union that the waste has left the Union.
3. Where waste destined for recovery is shipped through Member States from a country to which the OECD Decision does not apply to a country to which the OECD Decision applies or vice versa, paragraph 1 shall apply as regards the country to which the OECD Decision does not apply and paragraph 2 shall apply as regards the country to which the OECD Decision applies.

# Title VII

## Environmentally sound management and enforcement

### Chapter 1

#### *Article 56* *Environmentally sound management*

1. The waste producer, the notifier and any other undertaking involved in a shipment of waste or its recovery or disposal shall take the necessary steps to ensure that any waste shipped is managed without endangering human health and in an environmentally sound manner throughout the period of shipment and during the recovery and disposal of the waste.
2. For the purposes of export of waste, the waste shipped shall be deemed to be managed in an environmentally sound manner as regards the recovery or disposal operation concerned, where it can be demonstrated that the waste will be managed in accordance with human health and environmental protection requirements that are broadly equivalent to the human health and environmental protection requirements laid down in Union legislation. When assessing such broad equivalence, full compliance with requirements stemming from Union legislation shall not be required, but it should be demonstrated that the requirements applied in the country of destination ensure a similar level of protection of human health and the environment than the requirements stemming from Union legislation.

### Chapter 2

#### Enforcement

#### SECTION 1

#### INSPECTIONS BY THE MEMBER STATES AND PENALTIES

#### *Article 57* *Inspections*

1. Member States shall, for the purpose of enforcing this Regulation, carry out inspections of establishments, undertakings, brokers and dealers in accordance with Article 34 of Directive 2008/98/EC, and inspections of shipments of waste and of the related recovery or disposal.
2. Inspections of shipments shall take place at least in one of the following points:
  - (a) at the point of origin, carried out with the waste producer, waste holder or notifier;
  - (b) at the point of destination, including interim and non-interim recovery or disposal, carried out with the consignee or the facility;
  - (c) at the borders of the Union;
  - (d) during the shipment within the Union.

*Article 58*  
*Documentation and evidence*

1. Inspections of shipments shall include at least verification of documents, confirmation of the identity of the actors involved in those shipments and, where appropriate, physical checking of the waste.
2. In order to ascertain that a substance or object being carried by road, rail, air, sea or inland waterway is not waste, the authorities involved in inspections may require the natural or legal person who is in possession of the substance or object concerned, or who arranges the carriage thereof, to submit documentary evidence:
  - (a) as to the origin and destination of the substance or object concerned; and
  - (b) that it is not waste, including, where appropriate, evidence of functionality.

For the purpose of the first subparagraph, the protection of the substance or object concerned against damage during transportation, loading and unloading, such as adequate packaging and appropriate stacking, shall also be ascertained.

The provisions of this paragraph shall be without prejudice to the application of Article 23(2) and Annex VI to Directive 2012/19/EU of the European Parliament and of the Council<sup>62</sup>.

3. The authorities involved in inspections may conclude that the substance or object concerned is waste where:
  - (a) the evidence referred to in paragraph 2 or required under other Union legislation to ascertain that a substance or object is not waste, has not been submitted within the period specified by them; or
  - (b) they consider the evidence and information available to them to be insufficient to reach a conclusion, or they consider the protection provided against damage referred to in the second subparagraph of paragraph 2 to be insufficient.

Where the authorities have concluded that a substance or object is waste in accordance with the first subparagraph, the carriage of the substance or object concerned or the shipment of waste concerned shall be considered as an illegal shipment. Consequently, it shall be dealt with in accordance with Articles 24 and 25 and the authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.

4. In order to ascertain whether a shipment of waste complies with this Regulation, the authorities involved in inspections may require the notifier, the person who arranges the shipment, the waste holder, the carrier, the consignee and the facility that receives the waste to submit relevant documentary evidence to them within a period specified by them.
5. In order to ascertain whether a shipment of waste subject to the general information requirements set out in Article 18 is destined for recovery operations which are in accordance with Article 56, the authorities involved in inspections may require the

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<sup>62</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38).

person who arranges the shipment to submit relevant documentary evidence, provided by the interim and non-interim recovery facility and, if necessary, approved by the competent authority of destination.

6. Where the evidence referred to in paragraph 4 has not been submitted to the authorities involved in inspections within the period specified by them, or they consider the evidence and information available to them to be insufficient to reach a conclusion, the shipment concerned shall be considered as an illegal shipment and shall be dealt with in accordance with Articles 24 and 25. The authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.
7. The Commission is empowered to adopt, by means of implementing acts, a correlation table between the codes of the combined nomenclature, provided for in Council Regulation (EEC) No 2658/87<sup>63</sup> and the entries of waste listed in Annex III, Annex IIIA, Annex IIIB, Annex IV, and Annex V to this Regulation. The Commission shall keep this act updated, in order to reflect changes to that nomenclature and to the entries listed in those Annexes, as well as to include any new waste-related codes of the Harmonised System Nomenclature that the World Customs Organisation may adopt. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2). Commission Implementing Regulation (EU) 2016/1245<sup>64</sup> shall remain in force until the empowerment referred to in the present Article is exercised by the Commission.

#### *Article 59*

##### *Inspection plans*

1. Member States shall establish, in respect of their entire geographical territory, one or more plans, either separately or as a clearly defined part of other plans, for inspections to be carried out pursuant to Article 57(1) ('inspection plan').

Inspection plans shall be based on a risk assessment covering specific waste streams and sources of illegal shipments, the results of previous inspections and considering, where appropriate, intelligence-based data such as data on investigations by police and customs authorities and analyses of criminal activities. That risk assessment shall aim, inter alia, to identify the minimum number and frequency of inspections required, including physical checks on establishments, undertakings, brokers, dealers and shipments of waste or on the related recovery or disposal.
2. Inspection plans shall include, at least, the following elements:
  - (a) the objectives and priorities of the inspections, including a description of how those objectives and priorities have been identified;
  - (b) the geographical area covered by the inspection plan;
  - (c) information on planned inspections, including on physical checks;

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<sup>63</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff; OJ L 256, 7.9.1987, p. 1–675

<sup>64</sup> Commission Implementing Regulation (EU) 2016/1245 of 28 July 2016 setting out a preliminary correlation table between codes of the Combined Nomenclature provided for in Council Regulation (EEC) No 2658/87 and entries of waste listed in Annexes III, IV and V to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste (OJ L 204, 29.7.2016, p. 11).

- (d) the tasks assigned to each authority involved in inspections;
  - (e) arrangements for cooperation between authorities involved in inspections;
  - (f) information on the training of inspectors on matters relating to inspections; and
  - (g) information on the human, financial and other resources for the implementation of the inspection plan.
3. An inspection plan shall be reviewed at least every three years and, where appropriate, updated. That review shall evaluate to which extent the objectives and other elements of that inspection plan have been implemented.
  4. Without prejudice to applicable confidentiality requirements, Member States shall notify the Commission of the inspection plans referred to in paragraph 1 and any substantial revisions thereof every three years, and for the first time one year after the date of entry into force of this Regulation.
  5. The Commission shall review the inspection plans notified by the Member States in accordance with paragraph 4 and, if appropriate, draw up reports, based on the review of these plans, on the implementation of this Article. Such reports may include, inter alia, recommendations on priorities of inspections and on enforcement cooperation and coordination between the relevant authorities involved in inspections. Such reports may also be presented, where appropriate, in the meetings of the waste shipment enforcement group established under Article 63.

*Article 60*  
*Penalties*

1. Member States shall lay down the rules on administrative penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are applied. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and of any subsequent amendment affecting them.
2. When determining the type and level of penalties to be imposed in case of infringements, the competent authorities of the Member States shall give due regard to the following criteria:
  - (a) the nature, gravity and duration of the infringement;
  - (b) where appropriate, the intentional or negligent character of the infringement;
  - (c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;
  - (d) the economic benefits derived from the infringement by the natural or legal person held responsible, insofar as they can be determined;
  - (e) the environmental damage caused by the infringement, insofar as it can be determined;
  - (f) any action taken by the natural or legal person held responsible to mitigate or remedy the damage caused;
  - (g) the level of cooperation of the natural or legal person held responsible with the competent authority;

- (h) previous infringements by the natural or legal person held responsible;
  - (i) any action aiming to circumvent or obstruct administrative controls and
  - (j) any other aggravating or mitigating factor applicable to the circumstances of the case.
3. The Member States shall at least be able to impose the following penalties in case of infringements of this Regulation:
- (a) fines;
  - (b) confiscation of revenues gained by the natural or legal person from a transaction related to the infringement;
  - (c) suspension or revocation of the authorisation to carry out activities related to management and shipment of waste insofar as these activities fall under the scope of this Regulation;
  - (d) exclusion from public procurement procedures.

## **SECTION 2**

### **ENFORCEMENT COOPERATION**

#### *Article 61*

#### *Enforcement cooperation at national level*

Member States shall establish, as regards all relevant competent authorities involved in enforcement of this Regulation, effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of enforcement policies and activities to address illegal shipments of waste, including for the establishment and implementation of the inspection plans.

#### *Article 62*

#### *Enforcement cooperation between Member States*

1. Member States shall cooperate, bilaterally and multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments. They shall exchange relevant information on shipments of waste, flows of waste, operators and facilities and share experience and knowledge on enforcement measures, including the risk assessment carried out pursuant to Article 59(1), within established structures, in particular, through the waste shipment enforcement group established under Article 63.
2. Member States shall identify those members of their permanent staff responsible for the cooperation referred to in paragraph 1 and identify the focal points for the physical checks referred to in Article 58(1). That information shall be sent to the Commission which shall distribute to those members a compiled list.
3. At the request of another Member State, a Member State may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that Member State.

### *Article 63*

#### *Waste shipment enforcement group*

1. An enforcement group shall be established to facilitate and improve cooperation and coordination between the Member States in order to prevent and detect illegal shipments (the ‘waste shipment enforcement group’).
2. The waste shipment enforcement group shall consist of the designated permanent staff responsible for the cooperation referred to in Article 62(2) and may also include further representatives of each Member State's relevant authorities with responsibility for enforcement of this Regulation. It shall be chaired by the representative(s) of the Commission.
3. The waste shipment enforcement group shall be a forum for sharing information and intelligence on general trends relating to illegal shipments of waste, risk-based assessments carried out by Member States, and enforcement activities, as well as for exchanging views on best practices and for facilitating cooperation and coordination between relevant authorities. The waste shipment enforcement group may examine any technical question relating to the enforcement of this Regulation raised by the chairperson, either on his or her own initiative or at the request of the members of the group or the committee referred to in Article 77.
4. The waste shipment enforcement group shall meet at least twice a year. In addition to the members referred to in paragraph 2, the chairperson may invite to the meetings, where appropriate, representatives of other relevant institutions, bodies, offices, agencies or networks.
5. The Commission shall convey the opinions expressed in the waste shipment enforcement group to the committee referred to in Article 77.

## **SECTION 3**

### **ACTIONS PERFORMED BY THE COMMISSION**

#### *Article 64*

##### *General provisions*

1. In order to fight against infringements of the provisions of this Regulation, to support and complement the enforcement activities of the Member States, and to contribute to a uniform application of this Regulation throughout the Union, the Commission shall exercise the powers conferred onto it by Articles 64 to 68.
2. These powers are without prejudice to:
  - (a) the primary responsibility of the Member States to ensure and enforce compliance with this Regulation; and
  - (b) the powers conferred onto the Commission or the European Anti-Fraud Office (OLAF), respectively, in other legal acts, in particular in Regulation (EU, Euratom) 883/2013 of the European Parliament and of the Council<sup>65</sup>, Council Regulation 515/97<sup>66</sup>, or Council Regulation 2185/96<sup>67</sup>.

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<sup>65</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and

3. The Commission may exercise the powers conferred onto it by this Regulation on its own initiative, on the request of one or more Member States, or on a complaint if there is sufficient suspicion that the carriage of the substance or object concerned or the shipment of waste concerned constitutes an illegal shipment.
4. The Commission may exercise the powers conferred onto it by this Regulation with respect to shipments of waste that fall under the scope of application of this Regulation pursuant to Article 2(1), and in particular with respect to such shipments that affect several countries or that have serious adverse effects on human health and/or the environment.
5. In exercising its powers, the Commission shall take into account the inspections in progress or already carried out in respect of the same shipments by a Member State pursuant to this Regulation.
6. On completion of its actions, the Commission shall draw up a report. If the Commission concludes that the carriage of the substance or object concerned or the shipment of waste concerned constitutes an illegal shipment, it shall inform the competent authorities of the country or countries concerned accordingly and recommend that such an illegal shipment is dealt with in accordance with Articles 24 and 25. Such authorities may apply penalties in accordance with Article 60. The Commission may also recommend certain follow-up to the relevant authorities, and, where necessary inform the Union institutions, bodies, offices and agencies concerned.
7. Reports drawn up on the basis of paragraph 6, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
  - (a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
  - (b) in criminal proceedings of the Member State in which their use proves necessary in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors and shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall have the same evidentiary value as such reports;
  - (c) in judicial proceedings before the Court of Justice of the European Union.

*Article 65*  
*Inspections by the Commission*

1. The Commission may carry out inspections of shipments pursuant to Article 57(2) of this Regulation.

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repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1)

<sup>66</sup> Council Regulation 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82 of 22.3.1997, p. 1).

<sup>67</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities(OJ L 292 of 15.11.1996, p. 2).



2. The Commission shall prepare and conduct inspections in close cooperation with the relevant authorities of the Member State concerned.

The Commission shall give notice in good time of the object, purpose and legal basis of inspections to the focal points referred to in Article 62(2) in the Member State concerned in whose territory the inspection is to be conducted, so that such authorities may provide the requisite assistance. To that end, officials of the Member State concerned may participate in the inspections.

In addition, upon request of the Member State concerned, the inspections may be carried out jointly by the Commission and the relevant authorities of that Member State.

3. The staff and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection.
4. The staff of the Commission that conduct an inspection shall be empowered to:
  - (a) have access to any premises, land and means of transport of the person who arranges the shipment, the holder, the carrier, the consignee or the facility that receives the waste;
  - (b) examine any relevant documents related to the subject-matter and purpose of the inspections, irrespective of the medium on which they are stored, and to take or obtain in any form copies of or extracts from such documents;
  - (c) ask the notifier, the person who arranges the shipment, the holder, the carrier, the consignee or the facility that receives the waste for explanations on facts or documents relating to the subject-matter and purpose of the inspections and to record the answers;
  - (d) take and record statements from the notifier, the person who arranges the shipment, the holder, the carrier, the consignee or the facility that receives the waste related to the subject-matter and purpose of the inspections;
  - (e) physically check the waste and take samples of the waste for laboratory tests, where appropriate.
5. The notifier, the person who arranges the shipment, the waste holder, the waste carrier, the consignee and the facility that receives the waste shall cooperate with the Commission in the course of its inspections.
6. The authorities of the Member States involved in inspections on the shipments of waste in whose territory the inspection of the Commission is to be conducted shall, at the request of the Commission, provide the necessary assistance to the staff of the Commission.
7. The notifier, the person who arranges the shipment, the waste holder, the waste carrier, the consignee and the facility that receives the waste are required to submit to inspections of the Commission.
8. Where the Commission finds that the notifier, the person who arranges the shipment, the waste holder, the waste carrier, the consignee or the facility that receives the waste opposes an inspection, the Member State concerned shall afford the Commission the necessary assistance, requesting where appropriate the assistance of enforcement authorities, so as to enable the Commission to conduct its inspection. If

such an assistance requires authorisation from a judicial authority according to national rules, such authorisation shall be applied for.

*Article 66*  
*Requests for information*

1. The Commission may interview any natural or legal person who consents to be interviewed for the purpose of collecting all necessary information relating to the relevant waste shipments.
2. Where such an interview is conducted in the premises of an establishment, undertaking, broker or dealer, the Commission shall inform the focal points referred to in Article 62(2) in the Member State concerned in whose territory the interview takes place. If so requested by the authority of that Member State, its officials may assist the staff of the Commission to conduct the interview.
3. The Commission may request legal or natural persons responsible for an establishment or an undertaking, or any broker and dealer to provide all necessary information relating to the relevant waste shipments. The Commission shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided.
4. The Commission shall without delay forward a copy of the request to the relevant authorities of the Member State in whose territory the seat of the establishment, undertaking, broker or dealer is situated and to the authorities of the Member State whose territory is affected.
5. Where the establishment, undertaking, broker or dealer does not provide the requested information, or the Commission considers the information it received to be insufficient to reach a conclusion, Article 58(5) shall apply, *mutatis mutandis*.

*Article 67*  
*Procedural guarantees*

1. The Commission shall carry out inspections and request information in full respect of the procedural guarantees of the person who arranges the shipment, the waste holder, the waste carrier, the consignee or the facility that receives the waste, including:
  - (a) the right not to make self-incriminating statements;
  - (b) the right to be assisted by a person of choice;
  - (c) the right to use any of the official languages of the Member State where the inspection takes place;
  - (d) the right to comment on facts concerning them;
  - (e) the right to receive a copy of the record of interview and either approve it or add observations.

The Commission shall seek evidence for and against the person who arranges the shipment, the waste holder, the waste carrier, the consignee or the facility that receives the waste, and carry out inspections and request information objectively and impartially and in accordance with the principle of the presumption of innocence.

2. The Commission shall carry out inspections and request information in full respect of applicable confidentiality and Union data protection rules.

*Article 68*  
*Mutual assistance*

1. In order to ensure compliance with the relevant requirements set out in this Regulation, Member States and the Commission shall provide each other assistance in accordance with this Article.
2. Within the scope of Article 2(1) and without prejudice to Articles 61 and 62 of this Regulation, provisions of Article 2 paragraph 1, indents 3 to 5, 7 and 8, Articles 3, 4(1) until ‘legislation’ and (2), 5 to 14, 15(1) and 16 to 18 of Regulation (EC) No 515/97 shall apply *mutatis mutandis* to the cooperation between the competent national and Union authorities implementing this Regulation; references to ‘customs and agricultural legislation’ shall be understood to refer to this Regulation.

## Title VIII

### Final provisions

#### *Article 69*

##### *Reporting*

1. Before the end of each calendar year, each Member State shall send the Commission a copy of the report which, in accordance with Article 13(3) of the Basel Convention, it has drawn up and submitted to the Secretariat of that Convention for the previous calendar year.
2. Before the end of each calendar year, Member States shall also draw up a report for the previous year, based on the additional reporting questionnaire in Annex XI, and send it to the Commission. Within a month of transmission of that report to the Commission, Member States shall make the section of that report relating to Articles 57(1) and 60(1), including Table 5 of Annex XI, publicly available, electronically via the internet, together with any explanation that the Member States consider to be appropriate. The Commission shall compile a list of the Member States' hyperlinks referred to in the section relating to Article 57(1) in Annex XI and make it publicly available on its website.
3. The reports drawn up by Member States in accordance with paragraphs 1 and 2 shall be submitted to the Commission in an electronic version.
4. The Commission shall review the data reported in accordance with this Article and publish a report with the results of its review.

The European Environment Agency shall support the Commission in the task of monitoring the implementation of the Regulation by, when appropriate, drawing up reports providing an analysis of the shipments of specific waste streams, and of their environmental impacts.

The report mentioned in the first subparagraph shall be drawn up for the first time by *[OP: Please insert date of the end of the fifth year after the date of entry into force of this Regulation]* and every four years thereafter.

#### *Article 70*

##### *International cooperation*

Member States, where appropriate and necessary in liaison with the Commission, shall cooperate with other Parties to the Basel Convention and inter-State organisations, inter alia, via the exchange and/or sharing of information, the promotion of environmentally sound technologies and the development of appropriate codes of good practice.

#### *Article 71*

##### *Designation of competent authorities*

Member States shall designate the competent authority or authorities responsible for the implementation of this Regulation. Each Member State shall designate only one single competent authority of transit.

*Article 72*  
*Designation of correspondents*

Member States and the Commission shall each designate one or more correspondents responsible for informing or advising persons or undertakings making enquiries relating to the implementation of this Regulation. The Commission correspondent shall forward to the correspondents of the Member States any questions put to him or her which concern the Member States, and vice versa.

*Article 73*  
*Designation of customs offices of entry and exit*

Member States may designate specific customs offices of entry and exit for shipments of waste entering and leaving the Union. Where Member States decide to designate such customs offices, no shipment of waste shall be allowed to use any other border crossing points within a Member State for the purposes of entering or leaving the Union.

*Article 74*  
*Notification of, and information regarding, designations*

1. Member States shall notify the Commission of designations of:
  - (a) competent authorities, pursuant to Article 71;
  - (b) correspondents, pursuant to Article 72;
  - (c) where relevant, customs offices of entry and exit, pursuant to Article 73.
2. In relation to the designations referred to in paragraph 1, Member States shall provide the Commission with the following information:
  - (a) name(s);
  - (b) postal address(es);
  - (c) e-mail address(es);
  - (d) telephone number(s);
  - (e) languages acceptable to the competent authorities.
3. Member States shall immediately notify the Commission of any changes in the information referred to in paragraph 2.
4. The information referred to in paragraph 2, as well as any changes in that information shall be submitted to the Commission in electronically.
5. The Commission shall publish on its web-site lists of the designated competent authorities, correspondents and, where relevant, customs offices of entry and exit, and shall update those lists as appropriate.

*Article 75*  
*Amendment of Annexes I to X*

1. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annexes IA, IB, IC, II, III, IIIA, IIIB, IV, V, VI and VII in order to take account of changes agreed under the Basel Convention and the OECD Decision, or in case of Annex IC, in order to adapt it to the implementation of Article 26 after

[*OP: Please insert the date two years after the date of entry into force of the Regulation* ].

2. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IIIA, in order to, following the submission of a request by a Member State or on its own initiative, include in that Annex mixtures of two or more wastes listed in Annex III, where those wastes are not mixed to an extent which prevents their recycling in an environmentally sound manner, and, where necessary, provide that one or more of the entries in Annex IIIA shall not apply for exports to countries to which the OECD Decision does not apply.
3. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IIIB, in order to, following the submission of a request by a Member State or on its own initiative, include in that Annex wastes not listed in Annex III, Annex IV or Annex V, and provide that one or more of the entries in Annex IIIB shall not apply for exports to countries to which the OECD Decision does not apply.
4. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend the form and content of the information referred to in that Annex.
5. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IX, in order to update the lists of Union legislation and international guidance as regards environmentally sound management.
6. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex X as regards the criteria contained in that Annex.

#### *Article 76*

##### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 14(3), 28(4), 38(1), 42(4) and 75 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles 14(3), 38(1), 42(4) and 75 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 14(3), 28(4), 38(1), 42(4) and 75 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 77*

##### *Committee procedure*

1. The Commission shall be assisted by the committee established by Article 39 of Directive 2008/98/EC. That committee is a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  
  
Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### *Article 78*

##### *Amendment to Regulation (EU) No 1257/2013*

In Article 6(2) of Regulation (EU) No 1257/2013, point (a) is replaced by the following:

“(a) are only recycled at ship recycling facilities that are included in the European List and, in the case of ships which become waste in the Union, only at those facilities included in the European List which are located in countries listed in Annex VII to the Basel Convention.”

#### *Article 79*

##### *Amendment to Regulation (EU) No 2020/1056*

In Article 2(1)(a) of Regulation (EU) No 2020/1056, point (iv) is replaced by the following:

“(iv) Article 16(1) and Article 18(3) of Regulation (EU) No [OP please insert the number of this act]; this Regulation is without prejudice to controls by customs offices provided for in relevant provisions of Union legal acts;”

#### *Article 80*

##### *Review*

By 31 December 2035, the Commission shall, taking into account, inter alia, the reports drawn up in accordance with Article 69, and the review referred to in Article 59(5), carry out a review of this Regulation and submit a report on the results thereof to the European Parliament and to the Council, accompanied, if the Commission deems it appropriate, by a legislative proposal.

*Article 81*  
*Repeal and transitional provisions*

1. Regulation (EC) No 1013/2006 is repealed with effect from [OP: Please insert the date two months after the date of entry into force of this Regulation].

However, the provisions set out in Articles 4, 7, 8 and 9, Article 14(4) and (5), and Articles 15, 16, 18, 26, 35, 38, 41, 42, 43, 44, 45, 47 and 48, 50, 51, 54 and 55 of Regulation (EC) No 1013/2006 shall continue to apply until [OP: Please insert the date two years after the date of entry into force of this Regulation] and Article 37 of that Regulation shall continue to apply until [OP: Please insert the date three years after the date of entry into force of this Regulation ].

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex XII.

2. Regulation (EC) No 1013/2006 shall also continue to apply to shipments that have been notified in accordance with Article 4 of that Regulation and for which the competent authority of destination has given its acknowledgement in accordance with Article 8 of that Regulation before [OP: Please insert the date two months after the date of entry into force of this Regulation]. For those shipments, the provisions of this Regulation shall not apply.
3. Shipments for which the competent authorities concerned have given their consent in accordance with Article 9 of Regulation (EC) No 1013/2006 shall be completed not later than one year from [OP: Please insert the date one year after the date of entry into force of this Regulation].

*Article 82*  
*Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from two months after the entry into force of the Regulation.

However, Articles 5, 8 and 9, Article 14(14) and (15), Articles 15, 16, 18, Article 26(1), (2) and (3), and Articles 35, 41, 47, 48, 49, 50, 51, 54 and 55 from [OP: Please insert the date two years after the date of entry into force of the Regulation] and Articles 37, 38, 39, 40, 43 and 44 shall apply from [OP: Please insert the date three years after the date of entry into force of the Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*



## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056.

#### 1.2. Policy area(s) concerned

Policy area: 09 Environment

Activity: 09 02 02 Programme for Environment and Climate Action (LIFE) - Circular economy and quality of life

#### 1.3. The proposal/initiative relates to:

- a new action
- a new action following a pilot project/preparatory action<sup>68</sup>
- the extension of an existing action
- a merger or redirection of one or more actions towards another/a new action

#### 1.4. Objective(s)

##### 1.4.1. General objective(s)

The purpose of this Regulation is to protect the environment and human health against the adverse impacts which may result from the shipment of waste.

To do so, the Commission proposes provisions to facilitate the environmentally sound management of waste, in accordance with the waste hierarchy and to reduce the overall impacts of using resource, including by improving resource use efficiency. The proposed measures are crucial for the transition to a circular economy.

##### 1.4.2. Specific objective(s)

- Facilitate shipments within the EU, in particular to align the WSR with circular economy objectives.
- Guarantee that waste exported from the EU is managed in an environmentally sound manner.
- Better address illegal shipments of waste within and from and to the EU

##### 1.4.3. Expected result(s) and impact

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The new regulation should result in more materials and products being reused and in more waste being recycled. It should also improve the standards and practices for waste management in countries importing waste from the EU. Finally, it should lead to a reduction of illegal standards and practices for waste management in countries

<sup>68</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

importing waste from the EU. All of these effects will contribute to building robust and dynamic markets for secondary materials and increasing the transition to a circular economy in the EU and third countries

#### 1.4.4. *Indicators of performance*

*Specify the indicators for monitoring progress and achievements.*

The indicators of progress and achievement of the objectives will be:

- the amount of waste shipped for recycling in a given year;
- the number of consents to notifications in a given year, destined for recycling;
- the number of pre-consented facilities throughout the EU;
- the amount of waste shipped to pre-consented facilities in a given year;
- the number of consents to notifications in a given year, destined for pre-consented facilities.
- the amounts of waste exported annually from the EU , per relevant waste stream;
- the number of non-OECD countries which are included on the EU list of countries authorised to import waste from the EU, and the amount of waste exported to these countries.
- the number of inspections carried out by a MS in a given year;
- the number of reported illegal cases and penalties imposed;
- the amounts of waste involved in those illegal cases;
- the number of investigative and coordinating actions carried out by OLAF on illegal shipments of waste, as well as the number of recommendations issued by OLAF upon which Member States have acted.

### 1.5. **Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The implementation of the Regulation will require that a number of detailed rules are adopted through implementing/delegated acts in a time horizon of 2-5 years from the date of application of the Regulation. In addition, the Commission will need take on a more important role in monitoring the implementation the new regulation, to ensure that its objectives are met.

The delegated or implementing acts which would need to be adopted to ensure a proper implementation of the Regulation are the following:

- Detailed procedural and operational requirements to ensure the functioning of the electronic data interchange;
- Develop a harmonised calculation method for financial guarantees;
- Establish contamination thresholds for certain waste streams, in order to clarify their classification as non-hazardous or not;
- Assess the inclusion of new waste streams or mixtures of waste in the “green list”;

- Establish criteria to distinguish for certain objects or materials, between used goods and waste;
- Assessment and listing of third countries that are able as regards their ability to perform Environmentally Sound Management (ESM) of waste;
- Monitor waste exports to OECD countries and take action where necessary to limit such exports, when a risk of harm to the environment due to these shipments is identified.

1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

EU-wide rules on waste shipments ensure that the EU comprehensive waste legislation is not circumvented by shipping waste to third countries, where waste management standards and performance greatly differ from the EU ones. It is important that common rules on the control of transboundary movements of waste are set out at the EU level, to avoid a situation where illegal operators would chose to ship their waste through EU countries with less strict domestic rules than others, to export this waste from the EU (port-hopping scenario). EU rules are also justified for intra-EU shipments of waste, in view of the fact that the EU waste industry is highly integrated and in order to ensure equal treatment and legal clarity to all economic actors in this sector.

The added-value of an EU approach to waste shipment is also that it ensures consistency in the implementation of the Basel Convention and the OECD Decision by each Member States. The detailed provisions contained in the WSR avoid that Member States develop different interpretations of these provisions, which would hamper the shipments of waste within the EU.

1.5.3. *Lessons learned from similar experiences in the past*

This Regulation would build on and improve the functioning of the current Waste Shipment Regulation (EC) No 1013/2006, that itself was built on Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community. The Regulation draws notably on the evaluation of Regulation (EC) No 1013/2006, which was published by the Commission in January 2020.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The proposed Regulation is a response to the call by the Green Deal, the new Circular Economy Action Plan and the Zero Pollution Action Plan that the Commission should propose an ambitious review of the EU rules on waste shipments.

The objectives of this regulation are supported by the [Multiannual Financial Framework and the Next Generation EU](#), which both place an important emphasis on funding and investments to support the transition of the European economy to climate-neutral and circular models. This includes investments to modernise waste

management, increase capacity for recycling of some waste streams and promote high quality recycling and innovation.

Circular economy is also embedded in the matrix of the Horizon Europe programme on research, notably its partnership on circularity and is one of the pillars of the Programme for the environment and climate action (LIFE) 2021–2027.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

Currently EU exporters are required to follow the control procedure of third countries included in Regulation (EC) 1418/2007, when exporting waste there. This Commission Regulation requires regular updating, which takes up human resources and funds for supportive studies from the Commission. At the moment this subtask of implementing the EU waste shipment rules is carried out by DG Trade. With the proposed Regulation, Commission Regulation (EC) 1418/2007 would be repealed and replaced by new rules, the implementation of which would also require Commission resources. This task is expected to no longer be carried out by DG Trade but by DG ENV and so a transfer of FTE from DG Trade to DG ENV is proposed. Approximately 1 additional FTE in DG ENV would be needed to carry out these new tasks.

**1.6. Duration and financial impact of the proposal/initiative**

**limited duration**

- in effect from [DD/MM]YYYY to [DD/MM]YYYY
- Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

**unlimited duration**

- Implementation with a start-up period from 2024 to 2027,
- followed by full-scale operation.

**1.7. Management mode(s) planned<sup>69</sup>**

**Direct management** by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;

<sup>69</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

- bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

The LFS concerns staff expenditure and procurement, and standard rules for this type of expenditures apply.

### 2.2. Management and control system(s)

The LFS concerns staff expenditure and procurement, and standard rules for this type of expenditures apply.

### 2.3. Measures to prevent fraud and irregularities

The LFS concerns staff expenditure and procurement, and standard rules for this type of expenditures apply.

## 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>70</sup>	from EFTA countries <sup>71</sup>	from candidate countries <sup>72</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
3.2	09 02 02 - Circular economy and quality of life	Diff.	YES	NO	NO	NO
7.2	20 01 02 01 - Remuneration and	Non-diff.	NO	NO	NO	NO

<sup>70</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>71</sup> EFTA: European Free Trade Association.

<sup>72</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

	allowances					
7.2	20 02 01 01 - Contract staff	Non-diff.	NO	NO	NO	NO
7.2	20 02 06 02 – Conference and meeting costs	Non-diff.	NO	NO	NO	NO
7.2	20 03 17 - European Anti-Fraud Office (OLAF)	Non-diff.	NO	NO	NO	NO

### 3.2. Estimated financial impact of the proposal on appropriations

#### 3.2.1. Summary of estimated impact on operational appropriations

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	3	Natural Resources and Environment
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DG: ENV			Year 2024	Year 2025	Year 2026	Year 2027	<b>TOTAL (2024-2027)</b>
• Operational appropriations							
09 02 02 - Circular economy and quality of life	Commitments	(1a)	1.260	1.080	0.780	0.540	<b>3.660</b>
	Payments	(2a)	1.260	1.080	0.780	0.540	<b>3.660</b>
09 02 02 - Circular economy and quality of life <sup>73</sup>	Commitments	(1a)	p.m.	p.m.	p.m.	p.m.	p.m.
	Payments	(2a)	p.m.	p.m.	p.m.	p.m.	p.m.
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>74</sup>							
Budget line		(3)					
<b>TOTAL appropriations</b>	Commitments	=1a+1b +3	1.260	1.080	0.780	0.540	<b>3.660</b>

<sup>73</sup> The proposal foresees that in the future the interoperability of the proposed electronic data interchange system with the EU Single Window environment for Customs will be ensured. Such work will need financial resources devoted to it and made available to DG TAXUD to provide for the decided interconnection to be made possible. Currently, the level of appropriate resources for such work cannot be determined with certainty, but it is estimated that it could require a maximum estimated budget of 0.950 million EUR over a 5-year period, while a maintenance fee of 0.100 million EUR will be needed annually thereafter. It is further estimated that DG TAXUD would require 0.6 FTE during the first five years of implementation and 0.2 FTE for the maintenance of the interconnection with the EU Single Window Environment for Customs. As the development investment will be carried out over a 5-year period, the amount to be charged in the period 2024-2027 will be proportional to the effort made.

<sup>74</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

<b>for DG ENV</b>	Payments	=2a+2b +3	1.260	1.080	0.780	0.540	<b>3.660</b>
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• TOTAL operational appropriations	Commitments	(4)	1.260	1.080	0.780	0.540	<b>3.660</b>
	Payments	(5)	1.260	1.080	0.780	0.540	<b>3.660</b>
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)					
<b>TOTAL appropriations under HEADING 3</b> of the multiannual financial framework	Commitments	=4+ 6	1.260	1.080	0.780	0.540	<b>3.660</b>
	Payments	=5+ 6	1.260	1.080	0.780	0.540	<b>3.660</b>

**If more than one operational heading is affected by the proposal / initiative, repeat the section above:**

• TOTAL operational appropriations (all operational headings)	Commitments	(4)	1.260	1.080	0.780	0.540	<b>3.660</b>
	Payments	(5)	1.260	1.080	0.780	0.540	<b>3.660</b>
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)					
<b>TOTAL appropriations under HEADINGS 1 to 6</b> of the multiannual financial framework (Reference amount)	Commitments	=4+ 6	1.260	1.080	0.780	0.540	<b>3.660</b>
	Payments	=5+ 6	1.260	1.080	0.780	0.540	<b>3.660</b>

The amount reported above in 09.02.02 will be needed to support various implementation tasks related to the legislative provisions, that will be carried out by DG ENV (with the support of other services).

The procured activities (see list below) include the commissioning of preparatory studies in support of adopting implementing and delegated acts to implement a number of measures in the WSR, namely to harmonise the calculation of financial guarantees, and to clarify the classification of certain waste and the distinction between used good and waste for certain product groups. These activities will intensify in the first two years after adoption of the new Regulation.

Further to the procured activities, there is a need for including ICT support in developing and maintaining the system for electronic data interchange and external experts support to implement the procedure for non-OECD countries to import EU waste. This includes informing non-OECD countries of the new



provisions, assessing the notifications from these countries and establish and update the list of non-OECD countries authorised to import green-listed waste from the EU.

The proposal also foresees the interoperability of the proposed electronic data interchange system with the EU Single Window environment for Customs. Such work will need additional financial resources, which will be made available to DG TAXUD by DG ENV from the LIFE, so that the decided interconnection to be made possible. Currently, the level of appropriate resources for such work cannot be determined with certainty, but see footnote 69 on the estimation of the costs.

**List of proposed Procurement studies and services contracts** (subjects may need further finetuning)

*EUR million (to three decimal places)*

List of proposed Procurement studies and services contracts (subjects may need further finetuning)	2024	2025	2026	2027 <sup>75</sup>	Period 2024-2027
Finetuning and maintenance of the central system for electronic data interchange for waste shipments (ICT development and maintenance in DG ENV)	0.260	0.380	0.180	0.140	0.960
Preparatory study for a harmonised calculation methodology for the financial guarantee	0.100				0.100
Preparatory study to identify waste streams for which the Commission has to set thresholds for contamination of wastes	0.200				0.200
Preparatory study to set a contamination thresholds for each waste stream		0.100	0.100	0.100	0.300
Preparatory study to identify waste streams for which the Commission has to set out criteria to differentiate between used goods and waste	0.200				0.200
Preparatory study to set out criteria to differentiate between used goods and waste for each waste stream		0.100	0.100	0.100	0.300

<sup>75</sup> It is expected that some studies foreseen in 2027, will be continued for the period starting in 2028.

External experts support to implement the procedure for non-OECD countries to import EU waste. This includes informing non-OECD countries of the new provisions, assessing the notifications from these countries and establish and update the list of non-OECD countries authorised to import green-listed waste from the EU	0.500	0.500	0.400	0.200	1.600
Total for procurement contracts (covering studies and ICT costs) (without the foreseen costs for the link with the Single Window environment for Customs of DG TAXUD)	1.260	1.080	0.780	0.540	3.660

<b>Heading of multiannual financial framework</b>	<b>7</b>	‘Administrative expenditure’
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year <b>2024</b>	Year <b>2025</b>	Year <b>2026</b>	Year <b>2027</b>	<b>TOTAL</b> (2024-2027)
<b>DG: ENV and OLAF<sup>76</sup></b>						
• Human resources		0.509	0.509	0.468	0.193	<b>1.679</b>
• Other administrative expenditure		0.040	0.040	0.040	0.040	<b>0.160</b>
<b>TOTAL DG &lt;.....&gt;</b>	Appropriations	0.549	0.549	0.508	0.233	<b>1.839</b>

<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)	0.549	0.549	0.508	0.233	<b>1.839</b>
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EUR million (to three decimal places)

		Year <b>2024</b>	Year <b>2025</b>	Year <b>2026</b>	Year <b>2027</b>	<b>TOTAL</b> (2024-2027)
<b>TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework</b>	Commitments	1.809	1.629	1.288	0.773	<b>5.499</b>
	Payments	1.809	1.629	1.288	0.773	<b>5.499</b>

<sup>76</sup> Please note that DG TAXUD estimates that it would require 0.6 FTE during the first five years of implementation and 0.2 FTE for the maintenance of the interconnection with EU Single Window Environment for Customs.

3.2.2. *Estimated output funded with operational appropriations*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL			
	OUTPUTS																			
	Type <sup>77</sup>	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 <sup>78</sup> ...																				
- Output																				
- Output																				
- Output																				
Subtotal for specific objective No 1																				
SPECIFIC OBJECTIVE No 2 ...																				
- Output																				
Subtotal for specific objective No 2																				
<b>TOTALS</b>																				

<sup>77</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>78</sup> As described in point 1.4.2. ‘Specific objective(s)...’

### 3.2.3. Summary of estimated impact on administrative appropriations

EUR million (to three decimal places)

	Year 2024	Year 2025	Year 2026	Year 2027	<b>TOTAL</b> (2024-2027)
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<b>HEADING 7 of the multiannual financial framework</b>					
Human resources	0.509	0.509	0.468	0.193	<b>1.679</b>
Other administrative expenditure	0.040	0.040	0.040	0.040	<b>0.160</b>
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>0.549</b>	<b>0.549</b>	<b>0.508</b>	<b>0.233</b>	<b>1.839</b>

<b>Outside HEADING 7<sup>79</sup> of the multiannual financial framework</b>					
Human resources					
Other expenditure of an administrative nature					
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>					

<b>TOTAL</b>	<b>0.549</b>	<b>0.549</b>	<b>0.508</b>	<b>0.233</b>	<b>1.839</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>79</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

### 3.2.3.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

	Year 2024	Year 2025	Year 2026	Year 2027	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
<b>• Establishment plan posts (officials and temporary staff)</b>							
20 01 02 01 (Headquarters and Commission's Representation Offices)	1.0	1.0	1.0	1.0			
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
01 01 01 11 (Direct research)							
20 03 17 - European Anti-Fraud Office (OLAF)	1.0	1.0	1.0				
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>80</sup></b>							
20 02 01 (AC, END, INT from the 'global envelope')	2.5	2.5	2.0	0.5			
20 02 03 (AC, AL, END, INT and JPD in the delegations)							
<b>XX 01 xx yy zz<sup>81</sup></b>	- at Headquarters						
	- in Delegations						
01 01 01 02 (AC, END, INT - Indirect research)							
01 01 01 12 (AC, END, INT - Direct research)							
<b>TOTAL</b>	<b>4.5</b>	<b>4.5</b>	<b>4.0</b>	<b>2.5</b>			

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	<p>For DG ENV, 1 AD post is needed in addition to the currently available staff for the general implementation of the regulation, and for ensuring continuity for the different preparatory work and drafting of secondary legislation according to the deadlines proposed in the Regulation.</p> <p>For OLAF, 1 AD post is needed in addition to the currently available staff to carry out the additional investigative and coordinating actions in OLAF related to waste shipments.</p>
External staff	<p>The CA's are needed to support the general implementation, and in particular the implementation of the new rules on export of waste from the Union, and to perform technical work on preparing the needed secondary legislation for the implementation of the Regulation in DG ENV (delegated and implementing acts).</p>

<sup>80</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>81</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

### 3.2.4. Compatibility with the current multiannual financial framework

The proposal/initiative:

- can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

The costs foreseen under the budget line 09 02 02 will be borne by the LIFE programme and will be planned under the annual management plan exercises of DG ENV. The human resources required shall be preferably met by an additional allocation under the annual allocation procedure of human resources, possibly combined with any redeployment of resources from DG TRADE to DG ENV.

- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.
- requires a revision of the MFF.

### 3.2.5. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year N <sup>82</sup>	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

<sup>82</sup> Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue
  - please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>83</sup>					Enter as many years as necessary to show the duration of the impact (see point 1.6)		
		Year N	Year N+1	Year N+2	Year N+3				
Article .....									

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[...]

<sup>83</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.