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**Brussels, 19 April 2023**

**WK 5116/2023 INIT**

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#### **MEETING DOCUMENT**

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From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	ST 14135/21 + ADD 1
Subject:	Waste Shipments Regulation: WPE on 25 April 2023 - Presidency steering note

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With a view to the WPE meeting on 25 April 2023, delegations will find attached a steering note including a legal text proposal by the Presidency.

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WK 5116/2023 INIT

**LIMITE**

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# Working party on the Environment

## **Presidency steering note for WPE 25 April 2023** Regulation on Shipments of Waste

The meeting of the WPE on 25 April 2023 will examine the compromise proposal for the revised Waste Shipment Regulation. The Presidency has reviewed the entire text in light of Member States' viewpoints expressed during the course of discussions and the comprehensive written comments received and has against this background proposed a number of revisions with the aim of reaching a balanced compromise (see the Annex to this steering note). Delegations are invited to examine the compromise proposals with a view to reaching a balanced agreement as a basis for a Coreper mandate to initiate trilogue negotiations with the European Parliament.

The discussions at the meeting of the WPE will be structured into 5 blocks, as outlined below.

- 1) Title I and related recitals and annexes
- 2) Titles II and III and related recitals and annexes
- 3) Titles IV, V and VI and related recitals and annexes
- 4) Title VII and related recitals and annexes
- 5) Title VIII and related recitals and annexes

Given the large amounts of text, the limited meeting time and that all provisions have been discussed several times in the working party up till now, delegations are kindly asked to focus their comments and re-drafting suggestions to the very most important issues in each block.

## **1. Title I (General Provisions)**

The Presidency proposed compromise text in the steering note related to the WPE meeting on 4 April 2023 (WK 4322/2023), containing proposed amendments to Articles 1, 2, and 3 and to Recital 14.

The Presidency now proposes further amendments to Articles 2 and 3, and also additions to Recitals 3, 5, 7 and 9 which are of a clarifying nature. Notably, according to comments from several Member States, the Presidency suggests amending the definition of “inspection” by making it more general (Article 3.26), and to add language to the definition of “notifier” (Article 3.6). In order to clarify what is meant by “new waste producer”, some new wording is also added to the definition of “person who arranges the shipment” (Article 3.6bis), by making use of the second part of the definition of waste producer in Article 3.5 of Directive 2008/98/EC. The Presidency does not, however, propose to include a definition of “facility”, but would instead like to highlight that Annex X clarifies which requirements should be fulfilled by the facility receiving and treating the waste in relation to the auditing provisions of Article 43. Clarifying wording is also added in other provisions where “facility” is used.

On the definition of “shipment”, the Presidency maintains its proposal provided in the steering note of 4 April, while underlining that this wording is more in line with the Basel Convention and the OECD decision, and also consistent with the use of the term in other Articles, such as Article 9. The Presidency also maintains the proposed amendments to Article 9(4), concerning the validity of a consent. It is the Presidency’s understanding that a shipment taking place outside the country of dispatch after the end of the validity of the consent would constitute an illegal shipment according to the OECD Decision and the Basel Convention.

## **2. Title II (Shipments within the Union with or without transit through third countries) and Title III (Transports exclusively within a Member State)**

The Presidency proposed compromise text on Articles 4-21, 27, 29-33 as well as to Recital 17 and Annexes II, III, IIIA, IIIB and VII in the steering note related to the WPE meeting on 20 March 2023 (WK 3576/2023), and on Articles 22-25, 26 and 28 as well as a new Article 22bis in the steering note related to the WPE meeting on 4 April 2023 (WK 4322/2023).

The Presidency has after the meetings of the WPE received a large quantity of additional comments and redrafting suggestions, showing vast support for the outline and purpose of the provisions, but suggesting different and often contradicting amendments on details of the procedural framework for intra-EU shipments. The Presidency has therefore only been able to accommodate a minor part of the redrafting suggestions, for which there has been clear support from a majority of Member States or where there has been a clear added value for clarification or for finetuning the procedure, keeping in mind the need to progress negotiations and not adding more complexity to the text.

As a result, the Presidency proposes further amendments to Articles 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 22bis, 23, 24, 25, 26, 28, 29, 31, 32 and 33, as well as to Recitals 17, 19, 22, 26, 29, 31, 32, 33, 33bis Annex IC, II, III, IIIA, IIIB, IV and VII as presented in the Annex to the Steering note. Recital 15 was moved to become a new Recital 36bis and slightly amended, and a new Recital 18bis was added for the purpose of motivating Article 4.4. Some of the most important changes are further explained in the following:

Notably, the Presidency suggests to clarify in Article 5.8bis that, in case of mixtures of wastes not classified under one single entry in either Annex III, IIIA, Annex IIIB or Annex IV, the waste identification code from either Annex III, IIIB or IV or, where these are not applicable, from the list of waste referred to in Article 7 of Directive 2008/98/EC, shall be specified in order of importance in the notification and movement document for each fraction of the waste. In addition, the Presidency proposes that waste specified in accordance with Article 5.8bis may be further specified by providing relevant waste identification codes under Article 7 of Directive 2008/98/EC and other relevant identification codes as provided for in Annex IA. A new recital (18bis) has been included related to the provision in Article

4(4) concerning shipments of waste destined for laboratory analysis or experimental treatment trials, in order to justify the increased amounts of waste allowed in such shipments subject to general information requirements within the Union.

New amendments are proposed in Articles 17, to clarify that the listing of examples of what is considered as essential changes is not exhaustive and to add as an example the prolongation of the shipment due to unforeseen circumstances occurring after the start of the shipment. The latter addition also addresses concerns expressed by some Member States in relation to that the waste shall have been received by the facility for recovery or disposal before the end of the period of validity of the consent as proposed in Article 9(4).

For Article 18, the Presidency has taken back some text that was previously deleted, such as the requirement, in the case of a shipment of waste destined for an interim recovery operation, to indicate all the facilities where subsequent interim as well as non-interim recovery operations are envisaged in the Annex VII document.

In Article 24 on the take back of waste in cases of illegal shipments, the Presidency proposes a new paragraph (2bis) providing a possibility for the competent authorities concerned and, where relevant, the notifier, to agree on alternative arrangements for the recovery or disposal of the waste instead of applying the take-back obligations in paragraph (2)

On the issue of facilitating the procedure where waste from outermost regions of a Member State transits through another Member State before reaching its final destination, the Presidency notes that even though there is an understanding of the problems that can occur there are different views among Member States on how this should be addressed. The Presidency has therefore not included any proposal to address this issue at this stage.

### **3. Titles IV, V and VI**

The Presidency proposed compromise text on Articles 34-55, as well as Recitals 38 and 39 and new Recitals 36bis and 39bis, and Annexes V, VIII, IX and X in the steering note related to the WPE meeting on 6 March 2023 (WK 2780/2023).

As for the previous Titles, the Presidency has received many additional comments and redrafting suggestions on these Titles. The Presidency proposes a limited number of further amendments to Articles 36, 37, 38, 43, 44, 48, 50, 54 and 55, as well as to Recitals 36bis, 37, 38 and 39bis and Annexes V, VIII, IX and X, with the aim of building on the prior compromise text and adding only amendments with a general support and/or a clear added value and without further burdening the text with additional details.

Notably, additional changes are proposed in Articles 36 and 37 to ensure coherence and a more complete coverage of waste types, and Article 44 was further amended to clarify that the obligations on Member States in relation to verification of compliance with Article 43 is part of the obligations provided in Article 57. Also, some additions were made to Article 43, i.a. to further specify what information should be notified to the Commission. This includes information that could be used to facilitate access to audits that have been carried out. The Presidency notes a wide support for the new provisions that the Commission shall establish and keep up to date a register with information on facilities received in accordance with paragraph 5 *bis*.

#### **4. Title VII**

The Presidency proposed compromise text on Articles 56-68, as well as to Recital 46, in the steering note related to the WPE meeting on 6 March 2023 (WK 2780/2023). The Presidency now proposes some further amendments to Articles 56, 58, 60, 61, 63, 64, 65, 66, 67 and 68, as well as to Recitals 46 and 49.

Notably, the addition in Article 58 aims at providing for the authorities involved in inspections to use the criteria in Article 28 to distinguish between used goods and waste. In Article 60 the Presidency proposes compromise text, as close as possible to Article 79 in the agreed general approach on the Industrial Emissions Directive, and taking into account the provisions of the Environmental Crime Directive.

On the provisions giving the Commission enforcement powers (Articles 64-68), the Presidency has made some minor clarifying changes to text. The Presidency's understanding is that there is a broad general support for the presented proposals. Building on the discussions in the Working Party an addition is made to clarify the right to be heard in Article 67, taking into account also what's specified in the OLAF regulation (No. 883/2013).

## 5. Title VIII

The Presidency proposed compromise text on Articles 69-82, as well as to Annex XI in the steering note related to the WPE meeting on 6 March 2023 (WK 4322/2023). Additional text proposals were put forward in WK 4322/2023 ADD 1, in order to take into account the comments on Article 75. The Commission also presented a non paper (WK 4527/2023) on Article 79 in relation to Regulation 2020/1056 on electronic freight transport information (the eFTI Regulation).

The Presidency now proposes some further amendments to Articles 69, 74, 75, 76, 79, 81 and 82, as well as to Recitals 46 and 47 and Annex XI. In addition, a new Recital (54*bis*) has been added to point out the need for an expert group to be established in accordance with the Commission Decision establishing horizontal rules on the creation and operation of Commission expert groups C(2016)3301, and a new Recital 56*bis* has been added to motivate the proposal on Article 79. Notably, the Commission's text proposals on Article 79 have been incorporated, and the date of repeal of the existing Waste Shipment Regulation has been deferred to twelve months after the entry into force of the new Regulation (Article 81.1). Also, new paragraphs have been added to Article 81 to take into account notifications that have been authorised for pre-consented facilities and that, therefore, may have a validity of more than one year. The Presidency also proposes in Article 81 and 82 that the time limits for when the regulation is repealed and when the regulation shall enter into force, is changed from 6 to 12 months.

Finally, the Presidency has made some minor changes to Articles 81 and 82, but notes that the wording needs to be finalised after agreement has been reached on the Articles referred to in these Articles.



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>1</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>2</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>3</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>4</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>5</sup> sets out an ambitious roadmap to transform the Union into a sustainable, resource efficient and climate neutral economy. It calls on the Commission to review the Union rules on waste shipments established under

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<sup>1</sup> OJ C , , p...

<sup>2</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>3</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>4</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>5</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal (COM (2019) 640 final)

Regulation (EC) No 1013/2006. The New Circular Economy Action Plan<sup>1</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>2</sup> and the European Parliament<sup>3</sup> have also called for a revision of the current Union rules on waste shipments established under Regulation (EC) No 1013/2006. **Article 60(2a) of Regulation (EC) No 1013/2006 mandated the Commission to carry out a review of this Regulation by 31 December 2020.**

- (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 **of terms related to 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>4</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>5</sup>.
- (7) This Regulation also implements at Union level an amendment to the Basel Convention<sup>6</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 wastes that are **intended destined for final disposal, re-use, recycling and recovery operations** from countries listed in Annex VII to the Basel Convention to **all other countries not listed in that Annex**. The Union has ratified the Ban Amendment and implemented it since 1997<sup>7</sup>.

Commented [SE 1]: For consistency with Art 4A Basel

<sup>1</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>2</sup> Council conclusions on Making the Recovery Circular and Green (13852/20 OJ CONS 34).

<sup>3</sup> European Parliament resolution of 10 February 2021 on the New Circular Economy Action Plan (2020/2077(INI)).

<sup>4</sup> OJ L 39, 16.2.1993, p. 3

<sup>5</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>6</sup> Amendment to the Basel Convention ('Ban Amendment') adopted by Decision III/1 of the Parties to the Basel Convention.

<sup>7</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 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).

- (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 **OECD** Decision of the **OECD** Council of 30 March 1992 on the Control of Transboundary Movements of Wastes Destined for Recovery Operations<sup>1</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>2</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>3</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. **Such ships, until all hazardous substances and materials are removed from it, are generally classified as hazardous waste. 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 **are considered become waste and are exported from** in the Union are made subject to the relevant Union waste shipment rules, **including those** 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 **are considered hazardous waste and are exported from become waste** in the Union **should** only be recycled**

**Commented [SE 2]:** As pointed out by one MS: The OECD Decision contains the following: "Please cite this document as: OECD, Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations, OECD/LEGAL/0266"

**Commented [SE 3]:** Changes made in relation to Art 2(2)(h) and 78.

<sup>1</sup> OECD/LEGAL/0266

<sup>2</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>3</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).

at those facilities included in the European List of ship recycling 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 transports of waste within a Member State is a matter for that Member State, national systems concerning shipments transports of waste should take account of the need for coherence with the Union system for shipments of waste in order to ensure a high level of protection of the environment and human health.~~

**Commented [SE 4]:** Correction. Transports, not shipments, for consistency with definitions in article 3.(23) and (24)

(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 achievements of targets to increase recycling and reduce disposal of waste set out in Directive 2008/98/EC and Council Directive 1999/31/EC, all shipments of waste destined for disposal in another Member State should be generally prohibited. Shipments of waste destined 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 disposal management facilities covered by Directive 2010/75/EU of the European Parliament and of the Council 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.**

**Commented [SE 5]:** As pointed out by one MS, the order of the two subparas should be reversed, since the general provisions for shipments destined for disposal are addressed first in Art 4, and then the special case on mixed municipal waste

**Furthermore, 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, and shipments of such waste for disposal should be prohibited. In line with the waste hierarchy and the principles of proximity and self-sufficiency Member States should ensure that such waste is prevented in the first place, and collected and sorted in the second, with a view to separate those different fractions for recovery and only consider disposal for those residues that have no other potential than to be disposed of.**

~~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, all 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 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.

**(18bis) Laboratory analysis and experimental treatment trials are often a necessary tool to assess the nature of the waste and its suitability for recovery and disposal operation. Sound and innovative waste management operations are key to ensure the environmental sound management of waste and to establish circular economy business models in the Union. The shipment of waste to such laboratory analysis and experimental treatment trials should be facilitated by not subjecting it to all the applicable procedures. Moreover, to deliver accurate results a sufficiently significant amount of waste should be allowed to ship for the purpose of laboratory analysis and experimental treatment trials. As waste management standards and practices are more developed in the Union, compared to most third countries, it is appropriate that higher amounts are allowed to be shipped between Member States for the purpose of laboratory analysis and experimental treatment trials.**

- (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~~**recovery** 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 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 entry into force 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>1</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>2</sup>, when all required technical work to ensure this operability is completed.
- (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 facility 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>3</sup>, the relevant competent

**Commented [SE 6]:** Needs to be in line with Art 82

**Commented [VL7]:** Is this in accordance with Art 26 and what actually will be possible for Cas in third countries. Does this need to be included in the provisions in the regulation somehow?

**Commented [SE 8]:** For consistency with art 19

<sup>1</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>2</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.

<sup>3</sup> OJ L 124, 17.5.2005, p. 4.

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.

**In order to reduce the environmental effects of shipments following from the obligation to take back waste in illegal shipments and allow, where appropriate, a more efficient procedure in situations with illegal shipments, it should be possible for the competent authorities of dispatch, transit and destination to agree in certain cases that the waste in an illegal shipment may be recovered or disposed of in an alternative way outside the country of dispatch, instead of taking it back. This should however only apply to shipments within the Union.**

Commented [SE 9]: With reference to the proposed new 24(2bis)

- (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 certain 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 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 **and, where relevant, the person who arranges the shipment.**
- (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 members of the European Free Trade Association ~~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.

**Commented [SE 10]:** For consistency with Art 33.3

(33bis) **Although the supervision and control of ~~shipments~~ transports of waste within a Member State is a matter for that Member State, national systems concerning ~~shipments~~ transports of waste should take account of the need for coherence with the Union system for shipments of waste in order to ensure a high level of protection of the environment and human health.**

**Commented [SE 11]:** Moved from recital (15) since this is related to Art 33.

**Commented [SE 12]:** Correction. Transports, not shipments, for consistency with definitions in article 3.(23) and (24)

(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~~ **certain** plastic waste.

**(36bis) To ensure the control, traceability and environmentally sound management of wastes containing or contaminated with persistent organic pollutants (POPs), such wastes should always be subject to the procedure of prior written notification and consent and also not be allowed for export from the Union to countries that are not members of the OECD, when containing or contaminated with POPs meeting or exceeding the concentration limits specified in Annex IV to Regulation (EU) 2019/1021 on persistent organic pollutants<sup>1</sup>.**

(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 ~~the~~ **environment and public human** 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 wastes **or mixtures of non-hazardous wastes** 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

**Commented [SE13]:** Art 7(6) Regulation 2019/1021, "...ensure the control and traceability, in accordance with Article 17 of Directive 2008/98/EC, of waste containing or contaminated by a substance listed in Annex IV to this Regulation."

Recital 10: To ensure better traceability and effective treatment of waste containing persistent organic pollutants, and to avoid inconsistencies in Union law, it is necessary to ensure coherence between the provisions related to waste which contains persistent organic pollutants originally set out in Regulation (EC) No 850/2004, now repealed by Regulation (EU) 2019/1021, and those set out thereafter. The Commission should therefore assess whether it is appropriate that waste which contains any persistent organic pollutants exceeding the concentration limits specified in Annex IV to Regulation (EU) 2019/1021 is to be classified as hazardous, and put forward, if appropriate, a legislative proposal to amend Directive 2008/98/EC of the European Parliament and of the Council or a proposal to amend Commission Decision 2000/532/EC2, or both, accordingly.

**Commented [SE14]:** Exports to the countries on this list of wastes not listed in Annex IX to the Basel Convention should be subject to the procedure of prior written notification and consent

<sup>1</sup> Regulation (EU) 2019/1021 of the European Parliament and the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p 45),



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 **the** environment and ~~public~~**human** 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 **are** 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.

**(39bis) A register should be established and maintained by the Commission, that contains information on facilities that have been subject to an audit. Such a register should provide information that facilitates the preparation of sound**

**Commented [SE15]:** Such a recital is relevant if the Regulation provides for the establishment of such a register (art 43).

**shipments by ~~notifiers or persons who arrange a shipment~~ ~~natural or legal persons~~ intending to export waste from the Union, but is not intended to demonstrate compliance with conditions and obligations outlined 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>1</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

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<sup>1</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.

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) **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 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>1</sup>.**

**Commented [SE 16]:** The env crime directive leaves it to the Member States to determine if they want to sanction infringements that are less serious.

Member States should lay down rules on administrative penalties applicable to infringements of this Regulation and **should** ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. **Member States may lay down rules for administrative as well as criminal penalties for the same infringements. In any case, the imposition of criminal and administrative penalties should not lead to a breach of the right not to be tried or punished twice in criminal proceedings for the same criminal offence (ne bis in idem) as interpreted by the Court of Justice.** ~~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 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>2</sup>.~~

**Commented [SE 17]:** Moved to the beginning of the recital

**Commented [SE 18]:** In accordance with the recitals in IED.

- (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.

<sup>1</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).

<sup>2</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).

- (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. **To ensure that Member States and the Commission provide each other assistance in the enforcement of this Regulation, the relevant provisions of Regulation (EC) No 515/97 should apply. This should be without prejudice to the primary responsibility of the Member States to ensure and enforce compliance with this Regulation; and 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, Council Regulation 515/97, or Council Regulation 2185/96.**
- (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 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>1</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.

**(54bis) For the consultations with experts of the Member States and, where appropriate, representatives of other stakeholders and organisations, in the preparation of delegated acts and for the examination of questions raised by the implementation of this Regulation, a group of experts should be established by the Commission, in accordance with Commission Decision C(2016) 3301 final, establishing horizontal horizontal rules on the creation and operation of Commission expert groups.**

- (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>2</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.

**In order to avoid that before the start date of application of this Regulation no implementing rules are adopted pursuant to Regulation (EU) 2020/1056 in relation to the definition, accessing and processing in electronic format of information requirements pursuant to this Regulation, the amendment to Regulation (EU) 2020/1056 should apply retroactively as of the date of application thereof.**

- (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

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

<sup>2</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).

exchange documents electronically will become applicable two years after **its entry into force** ~~this date~~, and some provisions relating to the export of waste will become applicable three years after **its entry into force** ~~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.

- (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:

Obtenu par CONTEXTE

## 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 **and the treatment of the waste at its destination**. 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 **from and 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 **Directive (EU) No 2019/883<sup>1</sup>**, the International Convention for the Prevention of Pollution from Ships, **the International Convention for the Control and Management of Ships' Ballast Water and Sediments** or other **relevant** binding international instruments;

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<sup>1</sup> Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116)

- (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~~ **such waste is offloaded**, 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>1</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>2</sup>;
- (e) shipments of ~~the waste~~ **waters** 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 **Directive 91/271/EEC<sup>3</sup>** or other **relevant** Union legislation;
- (ebis) **shipments of substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council and that do not consist of or contain animal by-products** ~~the waste referred to in Article 2(2)(e) of Directive 2008/98;~~

§

**Commented [Swe19]:** As one MS have pointed out, Article 2(2)(e) of Directive 2008/98 does not refer to waste; it refers to substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 and that do not consist of or contain animal by-products.

<sup>1</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>2</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).

<sup>3</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40).



- (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>1</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>2</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
- which are considered as hazardous waste, are located in an area under the national jurisdiction of a Member State and are exported from the Union for recovery, becoming waste in an area under the national jurisdiction of a Member State, to which only Article 36, 45, 46 and Title VII and Title VIII apply; or
  - which are considered as waste, are located in an area under the national jurisdiction of a Member State and destined for disposal.

**Commented [SE 20]:** The exemptions only concern ships falling within the scope of SRR. Ships not falling within the scope of SRR fall within the scope of WSR.

~~However, Article 36, Title VII and Title VIII shall apply to ships flying the flag of a Member State falling within the scope of that Regulation and becoming waste in an area within the national jurisdiction of a Member State.~~

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 Articles 48(6) and 50(5) and 50(6 new) shall apply.
4. For shipments of waste from the Antarctic to third countries, which transit through the Union, shall be subject to Articles 36 and 56 shall apply.

**Commented [Swe21]:** Art 48(6) applies in case of imports destined for disposal. This exception should however also apply to imports destined for recovery, which are addressed in Art. 50(5).

<sup>1</sup> Protocol on Environmental Protection to the Antarctic Treaty of 1991.

<sup>2</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).

5. For ~~shipments transports~~ of waste exclusively within a Member State, only Article 33 shall apply.

**Commented [Swe22]:** In consistency with the definition in Art 3(23) and (24).

*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  
(a) listed in different entries in Annexes III, **IIIA**, IIIB and IV, or, where applicable, in different indents or sub-indents of such entries, **or**  
(b) **not classified under one single entry in either Annexes III, IIIA, Annex IIIB or Annex IV.**  
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 **D8, D9 and** D13, **D14 and** D15 referred to in Annex I to Directive 2008/98/EC;
- (3) ‘interim recovery’ means any of the recovery operations under R12 and R13 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;
- (6) ~~(5)bis~~ ‘notifier’ ~~‘person who arranges for the shipment’~~ 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 **referred to in Article 4(1) or (2) or who has had a shipment of waste carried out** 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 resulting in a change in the nature or composition of the waste;**
- (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;

**(6 bis) 'person who arranges the shipment' means any natural or legal person under the national jurisdiction of the country of dispatch who plans or carries out a shipment of waste referred to in Article 4(3) or (4), or who has had a shipment of waste carried out, and who is listed below:**

- (i) **the original waste producer;**
- (ii) **the new waste producer who carries out operations prior to shipment resulting in a change in the nature or composition of the waste;**

**Commented [Swe23]:** PRES suggests a compromise adding the second part of the definition of waste producer in Article 3, point (5) of Directive 2008/98/EC into the definition of notifier.

**Commented [Swe24]:** Relevant requirements for the person who arranges the shipment should be added in Art 18, see Art 18(1ter)

- (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 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;**

**Commented [Swe25]:** One MS suggests to add PRO here. PRES understanding is that the PRO is already covered by the definition. A PRO can be for example a collector or a dealer/broker.

- (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>1</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>2</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 ;

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<sup>1</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>2</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).

- (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~~ **the receipt of the waste by the facility that carries out the disposal or recovery operation** ~~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;
  - (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~~ **all** competent authorities concerned pursuant to this Regulation;

**Commented [SE 26]:** The PRES suggests this compromise proposal in order to have this definition in line with OECD-decision, BC and Article 9. Also for consistency with other provisions of this Regulation e.g. Art 5(8), 9(4)

(b) without the consent of ~~the~~ **all** 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;

~~(dbis) without providing the information to the competent authorities according to Article 16(1) and (2);~~

**Commented [Swe27]:** At the WPE meeting on 4 April, many MS opposed this addition.

(e) in a way which results in recovery or disposal in contravention of Union or international rules;

(f) contrary to Articles **4(1), 4(2bis5), 11, 34, 36, 37, 42, 43, 44, 45, 46** or 47;

(g) in a way which, in relation to shipments of waste as referred to in Article 4(3) ~~and (4) and (5)~~, **does not comply with Article 18**; ~~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; 6~~

~~(26)~~ 'inspection' means any 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~~ **compliance** with the requirements set out in this Regulation;

**Commented [Swe28]:** The PRES suggests a change to make the definition of "inspection" more general, proposed by some MS.

(27) 'waste hierarchy' means waste hierarchy as referred to in Article 4 of Directive 2008/98/EC;

~~(28)~~ 'routing' means the points of exit from and entry into each country concerned, including customs offices of entry, ~~into and/or exit from and/or export from the Union;~~

~~(29)~~ 'route' means the **passage** itinerary between the points of loading of the waste in the country of dispatch, via the points of exit from and entry into

**each country concerned, from and to the treatment facility in the country of destination. ~~entry into each country concerned.~~**

In addition, the definitions of ‘waste’, ‘hazardous waste’, **‘waste management’**, ‘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), **(9)**, (14), (19), (15), (16), (13), (17), (5), (6), (7) and (8) respectively of Directive 2008/98/EC shall apply.

**Commented [Swe29]:** Addition as suggested by one MS. Since this term is referred to in the text several times, it is now included.

## 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~~ **a consent is given** in accordance with Article 11. In order to obtain ~~authorisation~~ **a consent** 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.
  - (d) waste listed in Annex III or Annex IIIB and mixtures of wastes listed in Annex IIIA contaminated by other materials to an extent which:**



- increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the ~~provisions of~~ list of waste referred to in Article 7 of Directive 2008/98/EC as well as the hazardous ~~characteristics~~ properties listed in Annex III to that Directive ~~91/689/EEC~~; or
  - prevents the recovery of the wastes in an environmentally sound manner.
- (e) wastes or mixtures of wastes containing or contaminated with persistent organic pollutants within the meaning of Regulation (EU) 2019/1021 (POPs) in quantities meeting or exceeding a concentration limit indicated in Annex IV to that Regulation ~~(EU) 2019/1021~~, which are not to be classified as hazardous wastes.

**2 bis.** 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.

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 **of dispatch and destination concerned** and the ~~notifier~~ **person who arranges for the shipment**.

~~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 a these notifiers intends to ship waste referred to in Article 4(1), ~~or~~(2), or (2 bis), it~~ they shall submit a notification to all competent authorities concerned.

~~A notifier referred to in Article 3(6)(ii), (iii) and (iv) may only submit a prior written notification ('notification') when they it has have obtained a permit or is registered in accordance with Chapter IV of Directive 2008/98/EC.~~

~~Where these a notifiers submits a general notification for several shipments as referred to in Article 13, they it 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 12, 146, 158 and 169 of that Article shall apply.~~

**Where a shipment is destined for an interim recovery operation or an interim disposal operation, the additional provisions of Article 15 shall also 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~~ **where relevant**, 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)~~ **or (v)**, **where practicable**, 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, **to the extent possible at the time of notification.** ~~when available.~~

- 3bis** ~~Where requested by the any of the competent authorities concerned, the notifier shall supply provide information and documentation in accordance with paragraph 3 and additional information and documentation as set out in Part 3 of Annex II- to all competent authorities concerned. The competent authority which made the request concerned shall inform the other competent authorities concerned of that request. The notifier shall provide the requested information and documentation and additional information and documentation to all competent authorities concerned.~~

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 **and 3 bis**.

5. ~~Where requested by any of the competent authorities concerned, the notifier shall supply additional information and documentation to all competent authorities concerned. 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 **all** the competent authorities ~~concerned~~ of destination **are** satisfied that **all information and documentation that has been requested by them competent authorities concerned the notification document and the movement document that have** been properly carried out in accordance with paragraph 3bis **and has been received, have** been completed with any additional information and documentation they have requested in accordance with paragraph 3bis, as listed in Part 3 of Annex II.

6. **A copy of the contract,** ~~Evidence of the contract~~ concluded in accordance with Article 6, ~~or~~ **and** 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~~ **second** subparagraph, the ~~evidence declaration documentation~~ referred to in that subparagraph may, where the concerned competent authorities so allow, be provided after the notification is submitted, **at the latest at the time of completion of the movement document according to Article 16(2) 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.

- 8bis.** Only one waste identification code **as mentioned in Annex III, IIIA, Annex IIIB or Annex IV** shall be specified in ~~provided to identify the waste covered by the covered for each notification~~ **and movement document, except for;**

**Commented [SE 30]:** The PRES considers this to be consistent with Art 8(quarter) and (quinter). All CA shall be content with the information received.

**Commented [SE 31]:** The PRES considers that the declaration certifying a contracts existence is concluded when signing box 17 of annex 1A and that this box shall always be signed by the notifier.

**Commented [SE 32]:** In consistency with Art 7(3).

**Commented [SE 33]:** The PRES want to point out that the main rule is that only one waste identification code as mentioned in Annex III, IIIA, Annex IIIB or Annex IV shall be specified. It's a fact that some of these codes cover several EWL-codes which may be provided in the notification. In the case where the waste is not listed in Annex III, IIIA, IIIB or IV it is the PRES proposal that only one EWL-code shall be provided. As an exemption we consider several EWL-codes may be provided where all waste covered by an notification has essentially similar physical and chemical characteristics, but is not a mixture of wastes.

- wastes ~~are~~ not classified under one single entry in **either** Annex III, Annex IIIB or Annex IV. **In this case, also only one ~~type of~~ waste identification code from the list of waste referred to in Article 7 of Directive 2008/98/EC shall be specified covered for in each the notification and movement document, by providing a relevant.** As an exemption, waste not classified under one single entry in either Annex III, Annex IIIB or Annex IV may be specified using more than one waste identification code from the list of waste referred to in Article 7 of Directive 2008/98/EC, where all waste covered by the notification has essentially similar physical and chemical characteristics, but is not a mixture of wastes.
- ~~Where~~ mixtures of wastes ~~are~~ not classified under one single entry in either Annex III, IIIA, Annex IIIB or Annex IV, ~~unless but they are listed in Annex IIIA,~~ **In this case, the waste identification code from either Annex III, IIIB or IV or, where these are not applicable, from the list of waste referred to in Article 7 of Directive 2008/98/EC** for each fraction of the waste shall be specified in order of importance in the notification and movement document.

**Commented [SE 34]:** For example chemicals of different sorts, sent in different containers, not seen as a mixture of wastes

**Commented [SE 35]:** Proposed by several MS for clarification.

**8ter. Waste specified in accordance with (8bis) may be further specified by providing the relevant waste identification codes under Article 7 of Directive 2008/98/EC and other relevant identification codes as referred to in Annex II of Directive 2008/98/EC.**

**Commented [SE 36]:** Several MS have asked for a possibility to provide one or more relevant EWL-codes also when the waste is listed in annexes III, IIIA, IIIB and IV. PRES considers this is something that could be seen as provided for already through block 14 in Annex IA and the provisions in Annex IC. PRES does not consider such provisions belong in 8bis. However, as a compromise, a paragraph 8ter is proposed to clarify that the waste specified in accordance with 8bis may be further specified using other relevant identification codes.

*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. **If the consignee is not the operator of the facility for the recovery or disposal of the notified waste, the contract must also be signed by the operator of the facility or an additional contract must be concluded between the consignee and the operator of the facility.**
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).

**Commented [SE 37]:** Proposed by one MS. The PRES considers this a relevant addition. This would also be in line with the BC and the OECD-decision.

The contract shall be consistent with the corresponding notification document and the movement document and at least contain information on the notifier and the consignee together with an identification of persons representing each party, **notification number**, the designation and composition of the waste, the waste identification, the quantity of waste covered by the contract, the recovery or disposal operation and the period of validity of the contract.

**Commented [SE 38]:** Proposed by Some MS. The PRES considers this relevant to be able to relate the contract to the relevant notification.

3. The contract shall include obligations:

- (a) on the notifier to take the waste back **or ensure its recovery or disposal in an alternative way** 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.

**Commented [SE 39]:** For consistency with Art 22

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~~ **facility** 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(7), ~~point (b)~~.

**Commented [SE 40]:** One MS think that this paragraph is not consistent with art. 15(4). In fact, art. 6(4)(a) states the obligation on the consignee to provide -according to art. 15(4)- the certificates that the non-interim recovery/disposal operations have been carried out while art 15(4) states the obligation on the facility that carries out the interim recovery/disposal operation to provide a certificate to the notifier and the competent authorities concerned that the (interim) operation has been completed.

**Commented [SE 41]:** The PRES agree with this MS that Art 6(4)(a) and 15(4) are not compatible, when referring in Art 6(4)(a) to an obligation for the consignee to provide the certificate. in accordance with Art 15(4) and 15(5) the certificate shall be provided by the facility and be submitted to the notifier and CAs concerned. In the current WSR this obligatoin is placed on the facility (Ar5 5(4)(a). PRES considers this more correct

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 **at the time of completion of the movement document according to Article 16(2)** ~~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.~~

**Commented [SE 42]:** Moved to Art 48(3)(aa).

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 ~~that has approved it concerned~~ has received the certificate referred to in Article 15(4) or, where appropriate, the certificate referred to in Article 15(5) as regards interim recovery operations or **interim** disposal operations.

**Commented [SE 43]:** Clarification proposed by one MS.

6. By way of derogation from paragraph 5, where the waste shipped is destined for interim recovery operations or **interim** disposal operations and a further recovery operation or disposal operation takes place in the country of destination, **the competent authorities of dispatch and destination may agree that the financial guarantee or equivalent insurance shall** ~~may~~ be released when the waste leaves the interim facility and the competent authority concerned has received the certificate referred to in Article 15(4). In that case, ~~the competent authorities~~ **which decides to release the financial guarantee or equivalent insurance concerned shall immediately inform the other competent authorities concerned of its their decision to release the financial guarantee or equivalent insurance and** 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 time of completion of the movement document according to Article 16(2) at the latest at the start of that shipment.**

Commented [SE 44]: Consistency with Art 7(3)

9. The financial guarantee or equivalent insurance referred to in the **first** subparagraph shall be released when the competent authority **that has approved it** concerned has received the certificate referred to in Article 16(4) or, where appropriate, in Article 15(5) as regards interim recovery or **interim** disposal operations for the relevant waste. Paragraph 6 shall apply *mutatis mutandis*.

910. 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) **and where applicable (3bis).**

~~1bis — If the competent authority of dispatch considers that additional information and documentation as referred to in Article 5(3bis) is required, it shall request such information and documentation from the notifier.~~

1ter. The request for information and documentation referred to in **the first** subparagraphs ~~1 and 1bis~~ shall be ~~sent~~ **submitted** to the notifier **as soon as possible, but no later than** ~~within three ten~~ working days after submission of the notification.

2. The notifier shall provide the information and documentation referred to in paragraphs 1 ~~and 1bis~~ **as soon as possible, but no later than** ~~within seven ten~~

working days after the request by the competent authority of dispatch. **If requested by the notifier** ~~At the request of the notifier~~, the competent authority of dispatch may extend this period to fifteen working days.

3. Where the competent authority of dispatch considers that the notification is still not properly carried out as referred to in Article 5(34), **or additional information and documentation as referred to in Article 5(3bis) is still required, it shall may as soon as possible, but no later than seven working days after the end of the period as mentioned in paragraph 2**, repeat its request for information and documentation from the notifier ~~as soon as possible, but no later than again, within seven working days after the end of the period as mentioned in paragraph 2~~. For such a request, paragraph 2 shall apply ~~applies~~ *mutatis mutandis*.

- 3bis The competent authority of dispatch may decide that the notification is not valid and shall not be further processed, ~~after if the requested information and documentation have been added to the notification provided is not sufficient, 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, within the deadline set out in paragraph 2, or where applicable relevant, paragraph 3.~~

The competent authority of dispatch shall inform the notifier and the other competent authorities concerned of ~~the that~~ decision **as soon as possible, but no later than referred to in the first subparagraph**, ~~within seven working 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~~ the end of the period as mentioned in paragraph 2, or where applicable **relevant**, paragraph 3.

4. Where **the competent authority of dispatch considers that** the notification has been properly carried out, as referred to in Article 5(34), ~~the competent authority of dispatch~~ it shall, as soon as possible, but no later than **immediately, within ten working days after submission of the properly carried out notification, or within seven working days after the end of the period as mentioned in**

paragraph 2, or where applicable ~~relevant~~, paragraph 3, respectively inform the notifier and other competent authorities concerned thereof.

**4bis.** Where ~~any of~~ the competent authorities ~~ies of destination or any competent authority of transit concerned of transit or destination~~ considers that information and documentation in accordance with Article 5(3) or additional information and documentation as referred to in Article 5(3bis) is required ~~to complete the notification as referred to in Article 5(4)~~, it shall, as soon as possible, but no later than ~~within three~~ seven working days after receipt of the information as referred to in the ~~first subparagraph~~ **paragraph 4**, request such information and documentation from the notifier **and inform the other competent authorities of that request.**

**Commented [SE 45]:** Correction, it should be referred to paragraph 4.

5. The notifier shall provide the information and documentation referred to in paragraph **4bis**, as soon as possible, but no later than ~~within ten~~ working days after the request by the competent authority concerned. ~~At the request of the notifier~~ If requested by the notifier, the competent authority concerned may extend this period to fifteen working days.

**5bis.** Where the competent authorities ~~ies of destination or any competent authority of transit or destination~~ consider that information and documentation in accordance with Article 5(3) or additional information and documentation as referred to in Article 5(3bis) is still required, the competent authority concerned ~~shall~~ may as soon as possible, but no later than three working days after the end of the period as mentioned in paragraph 5, repeat its request for information and documentation from the notifier according to paragraph 4bis, as soon as possible, but no later than ~~again, within three working days after the period as mentioned in paragraph 5~~ 4bis first subparagraph. For such a request, paragraph 5 shall apply ~~applies~~ *mutatis mutandis*.

**5ter.** Where ~~a~~Any of Tthe competent authorities ~~ies of destination or any of the competent authority of transit concerned~~ may decide that the notification is not valid and shall not be further processed if the information and documentation provided is not sufficient or where no information has been provided by the notifier ~~considers that the notification is still not properly 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 paragraph 5, or where applicable relevant, paragraph 5bis.~~

~~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 of destination or any competent authority of transit ~~concerned~~ shall ~~immediately~~ inform the notifier and the other ~~concerned~~ competent authorities ~~concerned~~ of that decision ~~referred to in the second subparagraph~~, as soon as possible, but no later than ~~within~~ seven working days after the end of the period as mentioned in paragraph 5, or where applicable relevant, paragraph 5bis.

5quater. The competent authority concerned shall ~~have seven working days after the requested information and documentation have been provided by the notifier pursuant to paragraphs 2, 3, 5 and 5bis, to~~ inform the notifier and the other competent authorities concerned that it is satisfied with the information and documentation within ~~seven~~ **three** working days after the requested information and documentation have been provided by the notifier pursuant to paragraphs 2, 3, 5 and 5bis.

**Commented [SE 46]:** Proposed by one MS, this would be in line with the timelimits of the OECD-decision.

5quinter. Where the notification has been properly completed, as referred to in Article 5(5), taking into account the information as referred to in paragraph 5quater, the competent authority of destination shall immediately inform the notifier ~~and other the competent authorities of dispatch or~~ **and** any competent authority of transit concerned ~~thereof~~.

6. Where, within 30 working days ~~after the date on which the competent authority of dispatch informs the notifier and other competent authorities in accordance with Article 26 that the notification is properly carried out~~, after the submission of the notification, starting from the day after the submission of the notification or the information and documentation provided in accordance with paragraphs 2 and 3, the competent authority of dispatch has not acted in accordance with paragraphs 1, 1bis, 3bis, ~~or paragraph 4, or 5quater first~~

subparagraph ~~for has not objected to a shipment pursuant to Article 12(2bis)~~; it shall provide the notifier with a motivated explanation upon request.

Where, within 30 working days after the ~~date on which the competent authority of dispatch informs the notifier and other competent authorities in accordance with Article 26 that the notification is properly carried out~~ end of the period as mentioned in paragraph 4bis, ~~first subparagraph~~ or after information and documentation has been provided in accordance with paragraphs 5 or 5bis, after the submission of the notification, ~~a the competent authority of destination or any competent authority of transit~~ any competent authority of transit has not acted ~~under in accordance with~~ paragraph 4bis, ~~second subparagraph~~, or paragraphs 5bis, 5ter, 5quater or 5quinter, ~~and has not consented to a shipment pursuant to Article 11(2)~~ ~~for has not objected to a shipment pursuant to Article 12(2bis)~~ **without having requested additional information pursuant to** 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.

**Commented [SE 47]:** Proposed by two MS, The PRES considers that also the CA of transit should be mentioned here.

#### Article 9

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

1. The competent authorities of destination, dispatch and transit shall take, within 30 days after ~~the date on which the notifier has been informed in accordance with on which the competent authority of dispatch informs the notifier and other competent authorities in accordance with Article 26 that the notification is properly carried out~~ the submission of the notification ~~referred to in Article 8(5quinter) that the notification has been properly completed~~, 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;
  - (d) **not to consent, where the conditions in accordance with Article 11 are not fulfilled.**

By way of derogation, a competent authority concerned may decide in accordance with point (c) or (d) before the date on which the notifier has been informed in accordance with Article 8(5quinter), once the notification has been properly carried out, as referred to in Article 5(4).

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 Those tacit consents shall be valid for the period referred to in the written consent given by the competent authority of destination.~~

2. The competent authorities of **dispatch**, destination, and, where appropriate, ~~dispatch and~~ transit, shall **confirm** ~~signify their written consent in the notification document and transmit~~ submit their decision and the reasons therefore to the notifier within the 30-day time limit referred to in paragraph 1 **and inform the other competent authorities concerned of that decision.** ~~That decision shall be available to all competent authorities concerned in accordance with Article 26.~~

**Commented [SE 48]:** The added text needs to be amended, since this paragraph otherwise only covers decisions of consent. Also decision to object and not to consent needs to be covered by this para. As in the COMs original proposal. The part of the text requiring the written consent to be confirmed also in the notification document has been moved to the end of the subparagraph.

~~That Those~~ Tacit consents referred to in the ~~second~~ **third** subparagraph of paragraph 1 shall be valid for the period as indicated in the written consent in accordance with the first subparagraph given by the competent authority of destination.

Where, within 30 days after the date on which the notifier, the competent authority of dispatch or a competent authority of transit concerned has been informed in accordance with Article 8(5quinter), any of the competent authorities concerned has not taken a decision ~~under paragraph 1~~ in accordance with the first subparagraph, it shall provide the notifier with a motivated explanation upon request.

3. A written consent to a planned shipment shall expire on the ~~later~~ **earliest** date as indicated by the competent authorities concerned in the notification document in accordance with paragraph 2, first subparagraph ~~by the competent authorities concerned.~~ 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 (b2)~~, and during the period of validity of the tacit or written consent of all competent authorities concerned **in accordance with paragraph 3. 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.** **The waste shall have been received by the facility for recovery or disposal before the end of the period of validity of the tacit or written consent 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;
  - (e) **the termination of the financial guarantee;**
  - (f) **the termination of the contract;**
  - ~~(g) the decision of another competent authority concerned to withdraw their consent of that the notification is not valid.~~
- ~~{6bis The notifier may, in accordance with national legislation, appeal to a decision given by the competent authority.}~~
7. ~~Any withdrawal of consent shall be transmitted by means of official notice to the notifier, the competent authorities concerned and the consignee. The~~

**Commented [SE 49]:** With support from several MS, the PRES propose to keep this wording in art 9(4). As proposed in Art 3(24) the definition of shipment covers the transport of the waste to the facility. The shipment is given consent for a specific period in accordance with Art 9(3) (or 14(12)). The PRES is of the opinion that it would be hard to argue that the transport outside the CA of dispatch can take place without a valid consent. According to our understanding, this would also not be in line with the BC and OECD-decision.

If the EU would choose to allow a transport to take place outside the country of dispatch, after the end of the period of validity, adaptations would, as we see it, be needed in Titles IV., V and VI.

**Commented [SE 50]:** Proposed deletion by some MS.

competent authority concerned shall inform the notifier, the other competent authorities concerned and the consignee of any withdrawal of consent.

8. **When a consent is withdrawn in accordance with paragraph (6) the shipment or the treatment of waste shall not be allowed to continue and Article 22 or 24 shall apply, as relevant.**

*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 may~~ be based on one or more of the **conditions listed in Article 11 or of the** grounds listed in Article 12. ~~The notifier shall comply with any such conditions and shall take all necessary measures to ensure that the consignee, the facility and the carrier comply with any such conditions related to them.~~
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 **at the time of completion of the movement document according to Article 16(2)** ~~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~~**submitted** 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 competent authorities concerned do not have information that the notifier ~~and or~~ the consignee have ~~previously not~~ been convicted of illegal shipment or any other illegal act in relation to environmental protection in a period of 5 years prior to the notification request;**
  - (c) **the competent authorities concerned do not have information that the notifier ~~and or~~ the facility have, in a period of 5 years prior to the notification request, not repeatedly failed to comply with Articles 15 and 16 in connection with past shipments of waste;**
  - (cbis) **the Member State of destination has not exercised its right pursuant to Article 4(1) of the Basel Convention to prohibit the import of hazardous**

waste or of waste listed in Annex II to that Convention; ~~the planned disposal does not conflict with a prohibition for shipments destined for disposal enacted by a Member State pursuant to Article 4(1)(a) of the Basel Convention;~~

- (cter) the planned shipment and ~~or~~ disposal is in accordance with national legislation relating to environmental protection, public order, public safety or health protection in the Member State where the competent authority is located ~~involved in the shipment and disposal where the actions take place;~~
- (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 waste management plans drawn up pursuant to Article 28 of Directive 2008/98/EC**, 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.

**Commented [SE 51]:** Proposed by one MS, the PRES considers this to be relevant since it should be clarified that a CA needs only to check whether the national legislation in its country is adhered to.

**1bis** ~~In the case of~~ where the notifier demonstrates that the hazardous waste concerned is produced in a Member State of dispatch in such a small quantity overall per year that the provision of new specialised disposal installations facilities within that Member State would not be uneconomically economically viable, the conditions set out in paragraph 1(a)(ii) and (iii) shall not apply.

2. ~~Where a~~ ~~The competent authorities~~ of transit ~~shall only give~~ ~~provides a~~ ~~their a~~ ~~written~~ consent to that shipment, ~~within the 30 day limit referred to~~ in

accordance with Article 9(1), ~~if only~~ the conditions set out in paragraph 1, points (b), (c), ~~(cter)~~ and (d), of this Article ~~are fulfilled shall be considered~~.

~~3. Where the competent authorities concerned have not consented 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). The competent authority of dispatch shall immediately inform the notifier accordingly.~~

~~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 communicated in the report in accordance with Art 69.~~ ~~The Commission which shall inform the other all Member States of such consents taken in the previous calendar year, thereof in accordance with Article 26-~~

**Commented [SE 52]:** Could this be considered a duplication with the yearly reporting in accordance with Art 69? Why does this need to be shared immediately.

#### 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 by the Member State countries of dispatch or destination**, 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 **as well as to the recovery or disposal of residual waste generated through the recovery of the waste concerned**, 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>1</sup>, where required by that Directive;
- (e) Limiting incoming ~~for outgoing~~ 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 **in a period of 5 years prior to the notification request**.

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<sup>1</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).

- (g) the notifier or the facility has, **in a period of 5 years prior to the notification request,-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.
- ~~{2bis — The competent authorities of destination and dispatch may raise motivated objections to the planned shipment of waste destined for recovery once the notification has been properly carried out, as referred to in Article 5(4). The competent authority concerned shall inform the notifier and the other competent authorities concerned of that decision, within seven working days after the period as mentioned in Article 8(4), first subparagraph.}~~
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~~ **communicated** to the Commission in accordance with Article ~~69~~ **826**.
6. The ~~competent authorities~~ **Member States** of dispatch ~~and destination~~ 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 ~~(e), or~~ (d) ~~or (e)~~, may be based, and shall state to which waste and waste recovery operations **as well as the recovery or disposal operations of residual waste generated through the recovery of waste concerned** those objections apply, before such legislation is invoked as grounds for a motivated objection.

**The Member States of destination shall inform the Commission and the other Member States of decisions or legislation on which objections raised by competent authorities in accordance with paragraph 1, point (e), may be based and shall state to which waste and recovery operations those objections apply, before such decisions or 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:
- the waste contained in the different shipments has essentially similar physical and chemical characteristics ~~and has been as identified in accordance with Article 5(8bis);~~
  - the waste contained in the different shipments is shipped to the same consignee and the same facility;

**Commented [SE 53]:** One MS proposes here a "4bis" that would cover the termination the notification procedure. The PRES considers this is covered by Art 9(2).

**Commented [SE 54]:** Proposed by one MS. Art 12(6) first subpara covers legislation in the country of dispatch on which objections in accordance with Art 12(1)(d) may be based.

The Second subpara covers decisions or legislation in the country of destination on which objections in accordance with Art 12(1)(e) may be based.

This proposed rewriting changes nothing substantial, just clarifying the provision and how it should be used.

(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. **The notifier may indicate in an annex attached to the notification document one or more possible alternative routings. The movement document completed in accordance with Article 16(2) shall provide information on which routing indicated in the notification document that will be followed.** ~~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.~~

**Commented [SE 55]:** Clarifying amendment.

~~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) **to (5) 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.

**Facilities that only perform R13 operations, are not eligible for submitting a request as mentioned in the first subparagraph.**

2. The request referred to in paragraph 1 shall include the following information:
- (a) the name, registration number and address of the recovery facility;

**Commented [SE 56]:** The ref to Art 71 offers a possibility to designate an appropriate CA for this purpose.

- (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~~ **and the R-code(s) as referred to in Annex II of Directive 2008/98/EC**, for the recovery operation for which the pre-consent is requested;
- (d) **the designation and composition of the waste, the physical characteristics and the waste identification** for the wastes for which the pre-consent is requested, as listed in Annex IV to this Regulation ~~and or, where relevant, in the list of waste referred to in Article 7 of Directive Annex to Decision 2008/98532/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 **recovery** facility is permitted;
- (ebis) information on the amount of recovered material in relation to non-recoverable waste and on the planned method of disposal for the non-recoverable fraction after recovery;**
- (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 **in a period of 5 years prior to the request.**

~~(gbis) any other information, which is relevant for the assessment of the pre-consent in accordance with this Regulation and national legislation.~~

**Commented [SE 57]:** Proposed deletion after hearing the comments from MS.

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~~ **60** days after the date of receipt of the request referred to in paragraph 1 **and containing the information as referred to in paragraph 2**, 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 **that the waste will be managed in accordance with the waste hierarchy and other requirements laid down in following from Directive 2008/98/EC and where relevant, that best available techniques are applied in accordance with conclusions established under Directive 2010/75/EU** ~~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~~ **ten** years.
10. A pre-consent of a recovery facility may be revoked at any time by the competent authority, **if information becomes available which shows that the information provided in accordance with paragraph 2 is false or that the conditions in paragraphs 2 and 6 are no longer fulfilled**. 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~~ **assess** those changes ~~into account when assessing the request for pre-consent~~ and, if necessary, update **or revoke** 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 and the R-code(s) as~~ **referred to in Annex II of Directive 2008/98/EC**;
  - (c) the **waste identification** for ~~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 **the date on which the notifier has been informed in accordance with Article 8(5) (quinter) that the notification has been properly completed.** ~~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 a~~ **competent authority of destination concerned outside the union** may decide that more time is needed in order to receive further information or documentation from the notifier.

**Commented [SE 58]:** Any CA should have this right.

In such cases, that competent authority shall, within seven working days **after the date on which the notifier has been informed in accordance with Article 8(5quinter) that the notification has been properly completed** ~~of receipt of the information as referred to in the first subparagraph of Article 8(4),~~ inform the notifier **and the other competent authorities concerned.**

The total time needed to take one of the decisions as referred to in Article 9(1) shall not exceed 30 days **after the date on which the notifier has been informed in accordance with Art 8(5quinter) that the notification has been properly completed.** ~~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~~ **as well as non-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 the conditions in Article 11 are fulfilled or** 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 **or non-interim** disposal operations.
3. Within **three working one** days 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 **and the competent authorities concerned**

that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document. ~~In case the facility has no access to a system referred to in Article 26, the confirmation that the waste has been received shall be submitted via the notifier.~~

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 **to the notifier and the competent authorities concerned** that the operation has been completed. **This certificate shall be supplied on or annexed to the movement document.**

~~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 operation or interim or non-interim 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 **interim and non-interim recovery or and interim and non-interim** disposal operation has been completed.

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

**In order to ensure the consistency of the content of the certificate in the first subparagraph throughout the Union, the Commission may adopt a delegated act supplementing this Article establishing the information to be provided in such a certificate. That delegated act shall be adopted in accordance with Article 76.**

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 **in case it concerns shipments of waste as ~~mentioned~~ referred to in Article 4(1) or (2).**

**Commented [SE 59]:** Proposed by some MS that the COM should adopt an IA on the information to be provided in a certificate. According to the Presidency it should be a delegated since it is a supplement to the provision

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 **in case it concerns shipments of waste as referred to in Article 4(1) or (2)** 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 **other persons involved in the shipment, the relevant competent authorities concerned and the authorities involved in inspections.**
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, **in accordance with Annex IC, and submit it to the competent authorities concerned and to the consignee**, at least ~~one~~**three** working days before the shipment starts. **As an exception, information on the actual quantity of the waste, carrier(s) and, if applicable, container identification number may be submitted at the latest before the actual start of the shipment.**
- 2bis** The notifier shall ensure that, in addition to the obligation set out in paragraph 1, the notification document containing the written consents of and the conditions given by the competent authorities concerned are made electronically available, including during the time of the transport, to the competent authorities concerned and to the authorities involved in inspections.
- 2ter.** Where the documents referred to in paragraphs 1 and 2bis cannot be made available online during the transport, the notifier and the carrier(s) shall ensure that the documents are available offline in the transport vehicle. In such

cases, the notifier shall ensure that any changes or additions to the documents during the transport are submitted to a system as mentioned in Article 26.

3. The facility shall, within ~~one~~ **three working** days of receipt of the waste, provide confirmation to the notifier and the ~~relevant~~ **competent** authorities **concerned** that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document. **In case the facility has no access to a system referred to in Article 26, the confirmation that the waste has been received shall be submitted via the notifier.**
4. The facility carrying out a non-interim recovery operation or disposal operation shall ~~provide~~, 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~~ **competent** authorities **concerned**, 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.

**Commented [SE 60]:** This has been taken back for consistency with Art 16(5).

**Commented [SE 61]:** Can not have both "provide" and "certify". Therefore proposed deletion.

#### 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. **Essential changes shall include, but are not limited to, including changes in the intended quantity of waste, in the routing, including possible alternative routings, date of shipment or carrier(s), or to the duration of the shipment due to unforeseen circumstances occurring after the start of the shipment, leading to the shipment exceeding its period of validity. Essential changes shall include changes in the intended quantity of waste, route, in the routing, including possible alternative routes, 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~~ **inform the**

**Commented [SE 62]:** In order to clarify that the list is not exhaustive

**Commented [SE 63]:** In order to be able to allow a shipment to continue to its destination in cases where the shipment is prolonged due to unforeseen circumstances occurring after the start of the shipment it should be possible to prolong the validity of the consented shipment or allow the shipment to continue to its destination in such situations, if all CAs agree.

notifier, that the proposed changes do not require a new notification. **The competent authorities concerned shall inform the notifier as soon as possible but no later than ~~three~~ **five** working days after receipt of the information. The planned or continued shipment ~~may~~ **shall** not take place until this information has been provided from the competent authorities concerned.**

**Commented [SE 64]:** The PRES noted from several MS that the timelimit of three working days were to short. As a compromise, the PRES therefore proposes five working days. Also we propose to change "may" to "shall" as proposed by one MS. The wording "or continued" was also added to also cover ongoing shipments.

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

### General information requirements

#### Article 18

##### *~~General information requirements~~ Waste to be accompanied by certain information*

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~~**1bis** to 7 of this Article.

**1bis. A shipment referred to in paragraph 1 may only be arranged by a person who arranges a shipment referred to in Article 3(6bis)(ii), (iii) and (iv) when it has obtained a permit or is registered in accordance with Chapter IV of Directive 2008/98/EC.**

**Commented [SE 65]:** In line with Art 5(1)

- 1bis** All undertakings involved shall complete the relevant information contained in Annex VII at the points indicated and ensure that the information is made electronically available in accordance with Article 26, including during the time of the transport, to the other persons involved in the shipment, the ~~relevant~~ competent authorities concerned and the authorities involved in inspections.

**When the person who arranges the shipment is not the original waste producer referred to in Article 3, point (6bis)(a)(i), the person who arranges the shipment shall ensure that the original waste producer or one of the persons indicated in Article 3, points (6bis)(a)(ii), or (iii) or (v), where practicable, also signs the Annex VII document.**

**Commented [SE 66]:** This proposed second subpara of Art 18(1bis) covers the earlier 18(2ter) which was deleted. This wording seems better since it's in line with Art 5. A consequential change needs to be made in Annex VII

2. The person ~~under the national jurisdiction of the country of dispatch~~ who arranges ~~for~~ the shipment shall complete ~~and submit~~ the relevant information contained in Annex VII **to the extent possible**, no later than ~~one~~ **three working** days before the shipment ~~takes place~~ starts. **As an exception, information on the actual quantity of the waste, carrier(s) and, if applicable, container identification number may be submitted at the latest before the actual start of the shipment.**
- 2abis.** Where the information referred to in paragraph (1bis) and (2) cannot be made available online during the transport, the person who arranges the shipment and the carrier(s) shall ensure that the information is available by other means in the transport vehicle, provided that the information is consistent with the information made available electronically in accordance with paragraph (1bis) and (2).
- 2bis** ~~Where a shipment of waste is destined for an interim recovery operation, all the facilities where subsequent interim as well as non-interim recovery operations are envisaged shall also be indicated in Annex VII document in addition to the initial interim recovery operation.~~
- 2ter** ~~When the person who arranges the shipment is not the waste producer indicated in Annex VII document, the waste producer shall also sign the Annex VII document.~~
- ~~3. The person referred to in paragraph 2 shall ensure that the information referred to in that paragraph is made electronically available in accordance with Article 26, including during the time of the transport, to the competent relevant authorities and authorities involved in inspections.~~
4. The ~~consignee, 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 three working** days of receipt of the waste, provide, ~~through the systems as mentioned in Article 26,~~ confirmation to the notifier person who arranges ~~for~~ the shipment, ~~the competent authorities and the relevant authorities involved in inspections~~ that the waste has been received by completing the relevant information contained in Annex VII. ~~In case the consignee, the~~ recovery facility or the laboratory have no access to a system

**Commented [SE 67]:** In consistency with Art 16(2)

**Commented [SE 68]:** This was proposed to be deleted by the PRES. After hearing the comments from MS, the PRES can agree to take this Art 18(2bis) back.

**Commented [SE 69]:** Moved up to Art 18(1bis) second subparagraph

**Commented [SE 70]:** Proposed deletion by some MS. The obligation to provide confirmation that the waste has been received should only be placed on the facility (or laboratory).



referred to in Article 26, they shall provide the confirmation via the person who arranges the shipment.

5. The recovery facility, ~~and in case this facility is not located in the Union, the person referred to in paragraph 2,~~ 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 and provide that certificate to the person who arranges the shipment.~~ **In case the recovery facility is not located in the Union has no access to a system referred to in Article 26, it shall provide the confirmation via the person who arranges the shipment.**

**Commented [SE 71]:** Proposed rewording from some MS. This would be in line with what is in Art 18(4).

6. ~~The person referred to in paragraph 2 who arranges the shipment shall immediately inform the competent authorities of dispatch and destination in case a shipment has been prevented from being shipped import into the country of destination, rejected by the consignee or the recovery facility in case that facility is different from the consignee, or cannot be completed as originally intended.~~

7. All shipments of waste referred to in ~~paragraph 3 and 4 of Article 4(3) and (4)~~ shall be subject to the requirement of the conclusion of a contract between the person who arranges for the shipment and the consignee for the recovery of the waste. **If the consignee is not the operator of the facility, the contract must also be signed by the operator of the facility or an additional contract must be concluded between the consignee and the operator of the facility for the recovery of the waste.**

**Commented [SE 72]:** Proposed by several MS. The PRES considers this a relevant addition. This would also be in line with the BC and the OECD-decision.

The contract referred to in ~~the first subparagraph Annex VII between the person who arranges the shipment and the consignee for recovery of the waste shall be concluded and effective at the latest at the time when the information contained in Annex VII is completed in accordance with paragraph 2 when the shipment starts and for the duration of the shipment until a certificate is issued in accordance with paragraph 5.~~

The contract shall be consistent with the corresponding Annex VII document (s) and at least contain information on the person who arranges the shipment, the consignee, identification of persons representing each party, the description of the waste, the waste identification codes, the quantity of waste covered by the contract, the recovery operation and the period of validity of the contract. 5

~~the obligations as referred to in Article 6(3) and where applicable, Article 6(4), mutatis mutandis.~~

~~The contract shall include an obligation, W~~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.

~~[When the person who arranges the shipment is not the waste producer indicated in Annex VII document, the person who arranges the shipment shall ensure that the waste producer is also party to the contract.]~~

~~Where the consignee is not the recovery facility indicated in Annex VII document, the consignee shall ensure that the recovery facility is also party to the contract.]~~

**Commented [SE 73]:** See addition in Art 18(7) first subparagraph.

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 authorities concerned and the authorities involved in inspections~~ upon ~~its~~ their 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 paragraphs 2 to 5 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.
12. **The Commission may adopt an implementing act on instructions for completing the document in Annex VII. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).**

## Chapter 3

### 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 **or other substances or objects.**

**Commented [SE 74]:** Proposed by some MS to clarify further that waste shall not be mixed with other substances or objects during shipment.

### Article 20

#### *Keeping of documents and information*

1. The competent authorities, the notifier, the consignee and the facility which receives the waste shall keep **in the Union all information and documents sent submitted or exchanged to or by the competent authorities** in relation to a notified shipments ~~and shipments referred to in Article 22 and 24~~ 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 provided** pursuant to Article 18(4) 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.

- 3. The competent authorities shall keep in the Union all information and documents submitted or exchanged in relation to illegal shipments for at least five years from the date when a tack-back or alternative recovery or disposal has been completed.**

**Commented [SE 75]:** Art. 22 and 24 should be addressed in a separate paragraph. since the start of the period should be different and the requirement is addressed only to CA. Proposed by one MS.

### Article 21

#### *Public access to ~~notifications~~ information*

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 **consented** shipment cannot be completed as intended*

1. Where any of the competent authorities concerned becomes aware that a shipment of waste, ~~or including~~ its recovery or disposal, **to which the competent authorities concerned has given consent**, cannot be completed as intended in accordance with the terms of the notification and movement documents ~~and/or~~ contract referred to Article 6 **and where such shipment is not an illegal shipment**, 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, **or where relevant by a person deemed to be the notifier in accordance with paragraph 10 or 10bis in order to arrange for its disposal or recovery.** ~~The competent authority of dispatch shall identify~~ Where that is ~~not possible~~ **impracticable**, 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 **concerned 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, where relevant, by a person deemed to**

**Commented [Swe76]:** For consistency with Art. 24(2)(a).

**be the notifier in accordance with paragraph 10 or 10bis**, or, if that is ~~not possible~~ **impracticable**, 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, **so that its composition or nature has changed or can no longer be separated** 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, **where relevant, a person deemed to be the notifier in accordance with paragraph 10 or 10bis**, ~~the order indicated in that provision~~, or, if that is also ~~impossible~~ **impracticable**, 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 **as intended** 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, **where relevant, a person deemed to be the notifier in accordance with paragraph 10 or 10bis** ~~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~~ **impracticable**, 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 authorities of destination and dispatch by the initial notifier or, if that is ~~not possible~~ **impracticable**, 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, **where relevant, a person deemed to be the notifier in accordance with paragraph 10 or 10bis following the order indicated in that provision** or, if that is ~~also not possible~~ **impracticable**, 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 **as intended**, 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.

**Commented [SE 77]:** Purpose of this addition is not clear. In the Pres view, supported by some MS, such a MD would not contain any relevant information and a new MD with relevant information should be completed.

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.

**Commented [SE 78]:** This is not a new provision. The PRES considers that this responsibility is placed in the definition of "notifier" of the current WSR and such a responsibility seems appropriate.

10bis. Where a notifier specified in Article 3, points (6)(a)(i), (ii) or (iii), fails to fulfil any of the take-back obligations set out in this Article and Article 23, the waste holder specified in Article 3, point (6)(v), shall be deemed to be the notifier for the purpose of those take-back obligations.

**Commented [SE 79]:** According to several MS the waste holder should also be covered, e.g. for the case where the other persons are insolvent at the time of the take-back. The text is similar to the one proposed in Art 24.3bis.

#### Article 22bis

##### *Take-back when a shipment subject to general information requirements cannot be completed as intended*

1. In the case a shipment referred to in Article 4(3) or 4(4) cannot be completed as ~~originally~~ intended, in accordance with the information contained in Annex VII ~~and/or~~ the contract referred to Article 18(7), and where such shipment is not an illegal shipment, the person ~~referred to in Article 18(2)~~ who has arranged the shipment in accordance with Article 18 shall immediately inform the competent authority of dispatch ~~thereof of this~~. In such cases the person who arranges the shipment or the consignee, following the obligations of the contract referred to in Article 18(7), shall take the waste back to the country of dispatch or ensure its recovery in an alternative way in the country of destination or elsewhere; and ~~provide ensure, if necessary, that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way, for its storage in the meantime.~~

**Commented [Swe80]:** For consistency with Art. 22(9)

The take-back or recovery of the waste in an alternative way shall take place within 90 days, or any other period agreed between the competent authorities concerned after the date on which the person who arranges the transport informed the competent authority of dispatch in accordance with the first subparagraph.

**Commented [Swe81]:** In consistency with Art 22(2)

2. In cases of take back or alternative arrangements outside the initial country of destination, as referred to in paragraph 1, relevant information contained in Annex VII shall be completed and submitted by the initial person who has arranged the shipment in accordance with Article 18(2). In case the shipment for take back or alternative arrangements is subject to Article 4(1) or 4(2), Article 22 shall apply mutatis mutandis.
3. Where the competent authority of dispatch becomes aware that a shipment referred to in Article 4(3) or 4(4) has not been completed as intended and that the obligations to take the waste back or arrange for its alternative recovery in accordance with paragraph 1 have not been fulfilled, the competent authority of dispatch shall take all necessary measures to ensure that the person that has arranged the shipment takes the waste back or arranges for its recovery in an alternative way and provides ensures, if necessary, that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way for its storage in the meantime. Where it is not possible impracticable for the person that has arranged the shipment to fulfil the take-back obligations, these obligations shall be fulfilled by a person deemed to be the person who arranges the shipment in accordance with (4) or (5), where relevant.
4. Where the person who arranges the shipment or a person deemed to be the person who arranges the shipment under Article 3, point (x)(xx)(xx) (*dealer/broker*), 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 (xx) respectively who authorised the dealer or broker to act on its behalf shall be required to fulfill these take-back obligations.
5. Where the person who arranges the shipment or a person deemed to be the person who arranges the shipment under Article 3, point (x)(xx)(xx) (*producer/collector*), respectively fails to fulfil any of the take-back obligations set out in this Article and Article 23, the waste holder specified in Article 3, point (6)(v), shall be required to fulfill these take-back obligations.



6. Where it is ~~not possible~~ **impracticable** for the person that arranges the shipment or a person deemed responsible in accordance with **paragraph 4 or 5** to fulfil the take-back obligations set out in paragraph 3, the competent authority **of dispatch** ~~itself~~ or a natural or legal person on its behalf shall comply with this Article.

**Commented [SE 82]:** Proposed by one MS, this would be in consistency with other Articles.

#### Article 23

Costs for take-back when a ~~consented~~ shipment cannot be completed **as intended**

**Commented [Swe83]:** Deletion, since this Art addresses both Art. 22 and 22bis.

1. Costs arising from the return of waste from a shipment that cannot be completed **as intended**, 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 **as intended**, storage costs pursuant to Article 22(9) shall be charged in accordance with the following order:
- (a) to the **initial** notifier ~~following the order of the list in Article 3, point (6);~~ or, if ~~that is not possible~~ **impracticable**, to the person referred to in point (b);
  - (a1) to a person deemed to be the notifier in accordance with Article 22(10) or 22(10bis), where relevant; or, if that is also impracticable, to the person referred to in point (b);**
  - (b) to other natural or legal persons as appropriate; or if that is also ~~impossible~~ **impracticable**, to the person referred to **in accordance with** in point (c);
  - (c) to the competent authority of dispatch; or, if that is also ~~impossible~~ **impracticable** in accordance with point (d);
  - (d) as otherwise agreed between the competent authorities concerned.

- 1bis. Before charging costs to someone else than the initial notifier the financial guarantee referred to in Article 7 shall be used. If there is no financial guarantee or if the costs exceed the amount of the guarantee the costs shall be charged following the order indicated in paragraph (1)(b)-(d).**

**Commented [SE 84]:** At the WPE meeting on the 4th of April questions were raised by some MS on the practical implementation of this provision. The PRES considers that when costs has been charged to the CA and the initial notifier have not been able to bear these costs, the financial guarantee shall be used before any other actor is charged. This is not related to the take-back responsibility i art 22.

**1ter.** This Article shall apply *mutatis mutandis* to costs arising from the take-back or alternative recovery of wastes in accordance with Article 22bis, ~~including costs for its recovery or disposal, transport and storage.~~

**Commented [Swe85]:** One MS has proposed adding the consignee in this paragraph, PRES considers the consignee to be covered by para 23.1 b) since other natural or legal persons as appropriate could be the consignee.

**Commented [Swe86]:** Superfluous

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~~ or, where relevant, by a person deemed to be the notifier in accordance with paragraph 3 or 3bis; in order to arrange for its disposal or recovery; or if impracticable, in accordance with point (c); or if no notification has been submitted, in accordance with point (b);
  - (b) taken back by ~~the notifier de jure~~ a person deemed to be the notifier, following the order indicated in Article 3, point (6), or, where relevant, by a person deemed to be the notifier in accordance with paragraph 3 or 3bis; in order to arrange for its disposal or recovery; or if that is ~~not possible~~ impracticable, 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);

**2bis.** The take-back obligation set out in paragraph 2 shall not apply if the competent authorities of dispatch, transit and destination concerned and, where relevant, the notifier or person deemed to be the notifier, agree and are satisfied that the waste can be:

- (a) alternatively recovered or disposed of in the country of destination, transit or dispatch by the notifier or, where relevant, by a person deemed to be the notifier in accordance with paragraph 3 or 3bis, or, if that is impracticable,

**Commented [SWE87]:** One MS has proposed to add a possibility to agree to allow, in certain cases, the waste to be recovered or disposed of in an alternative way instead of taking it back. This should however only apply within the EU.

Some MS have supported this proposal.

PRES agrees that it would help to make the take back procedure more efficient if the waste could more often be treated in the country where it has been stopped.

by competent authority of dispatch itself or by a natural or legal person on its behalf; or, if that is also ~~impossible~~ **impracticable**, in accordance with point **(be)**;

- (be)** alternatively recovered or disposed of in another country **by the notifier or, where relevant, by a person deemed to be the notifier in accordance with paragraph 3 or 3bis, or, if that is impracticable,** by the competent authority of dispatch itself or by a natural or legal person on its behalf if all the competent authorities concerned agree.

**By way of derogation from the first subparagraph, for exports from the Union to third countries and for imports into the Union from third countries, an alternative recovery or disposal according to the first subparagraph shall only take place if a take-back according to paragraph 2 is impracticable.**

- 2ter.** The take-back, recovery or disposal referred to in ~~the first subparagraph~~ **2 and 2bis** 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~~ **2**, 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~~ **2**, points (a), (b) or (c), and in accordance with that order.

The competent authorities ~~concerned shall cooperate to ensure that the waste in question is taken back or alternatively recovered or disposed of as referred to in the first subparagraph, points (a) — (c), and~~ 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~~ **2bis**, points ~~(a)~~ and ~~(b)~~, ~~by the competent authority of dispatch,~~ **outside the country where the illegal shipment has been discovered**, a new notification shall be submitted by the ~~person or initial competent authority~~ **listed in those points** ~~the first subparagraph, points (a), (b) or (c), and in accordance with that order 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.~~

**The competent authorities concerned shall cooperate, as necessary, to ensure that the waste in question is taken back or alternatively recovered or disposed of as referred to in paragraphs 2 and 2bis.**

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.

**3bis. Where a notifier specified in Article 3, points (6)(a)(i), (ii) or (iii), fails to fulfil any of the take back obligations set out in this Article and Article 25, the waste holder as specified in Article 3(6)(v) shall be deemed to be the notifier for the purposes of those take-back obligations**

**Commented [Swe88]:** Reference to Art 3(6)(v) added, as proposed by one MS and also in line with Art 22 and 22bis

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~~ **impracticable**, 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~~ **impracticable**, by the initial competent authority of dispatch.

Where a new notification is submitted by the initial competent authority of dispatch, **which carries out the take-back in accordance with paragraph 2(c)**, 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~~, **37 and 42** 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 **of waste** referred to in **Article 4(3) or 4(4) that is considered to be illegal, the provisions of this Article shall apply *mutatis mutandis***

**to the person who arranges the shipments and to the competent authorities concerned.** ~~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) **or (2bis)** 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~~ **or a person deemed to be the notifier**, as referred to in Article 24(2), point (a) ~~as identified following the order indicated in Article 3, point (6);~~ **or if impracticable, in accordance with point (c);** or, if no notification has been submitted, in accordance with point (b);
  - (b) the ~~notifier de jure~~ **person deemed to be the notifier, as referred to in Article 24(2), point (b),** or other natural or legal persons as appropriate; or, if ~~that is not possible~~ **impracticable**, 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~~**8**), shall be charged to the consignee; or, if ~~that is not possible~~ **impracticable**, 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 **or a person deemed to be the notifier in accordance with Article 24(2)(b), 24(3) or 24(3bis)**, ~~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~~ **impracticable**, 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.

**3bis.** In cases where a notification has been submitted, the financial guarantee referred to in Article 7 shall be used before charging costs in accordance with paragraphs (1), (2) or (3) to someone else than the notifier or the consignee respectively. Where the costs exceed the amount of the guarantee the costs shall be charged following the order indicated in paragraph (1), (2) and (3).

4. In the case of an ~~illegal~~ shipment **of waste** referred to in Article 4(3) or 4(4) that is considered to be illegal, the provisions of this Article shall *apply mutatis mutandis* to the person who arranges the shipments and to the competent authorities concerned ~~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 system **available at national level** ~~national system~~ in accordance with paragraph 3:
  - (a) For waste as referred to in Article 4(1) and (2):
    - (i) ~~submission a~~ notification of a planned shipment pursuant to Articles 5 and 13;
    - (ii) request(s) for information and documentation **and additional information and documentation** pursuant to Articles 5 and 8;

**Commented [Swe89]:** The Article has been further specified following the discussions at the WPE meeting.

**Commented [Swe90]:** In some MS the national system is not provided by the CA. This wording allows for other systems already in place, i.e commercial systems.

- (iii) ~~submission of information and documentation and additional information and documentation~~ pursuant to Articles 5 and 8;
  - (iv) information, and decisions pursuant to Article 8;
  - (v) consent **or objection** to a notified shipment and if applicable, ~~the official notice of~~ a withdrawal **of a consent** thereof pursuant to Article 9;
  - ~~(vbis) appeal to a decision pursuant to Article 9;~~
  - (vi) **information and** conditions for a shipment pursuant to Article 10;
  - ~~(vbis) information on consents pursuant to Article 11(4);~~
  - ~~(vii) objections in case the conditions in Article 11(2) are not fulfilled;~~
  - (viii) **information and** objections to a shipment pursuant to Article 12;
  - ~~(viii bis) information on objections pursuant to Article 12(5);~~
  - (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) confirmations 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 information and documents to be sent pursuant to Titles IV, V and VI;~~
- (b) For waste referred to in Article 4(3) **and (4)**, ~~the~~ information and documentation, **confirmation and certificates** ~~required under~~ **pursuant to** Article 18.



(c) **information and documents related to the procedure of prior written notification and consent and the general information requirements pursuant to Titles IV, V and VI, where applicable;**

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 ~~in use~~ **by competent authorities.**

**The hub referred to in the first subparagraph shall also be used for the exchange in real time of the information and documents referred to in paragraph 1 for shipments within the EU with transit via third countries, export from the EU, import into the EU and transit through the EU, in case competent authorities, authorities involved in inspections and economic operators in third countries connect with that hub via a system available at their national level, for which paragraph 3 applies *mutatis mutandis*, or via the website referred to in the third subparagraph.**

That central system shall also **provide a website for preparing and processing information and documents referred in paragraph 1 for shipments within the Union, for shipments within the EU with transit via third countries, export from the EU, import into the EU and transit through the EU that can** be used by the competent authorities **involved in inspections and economic operators** in ~~of~~ the Member States **and in third countries** that ~~have do~~ **not set up a national system at their national level** for electronic data interchange, to submit and exchange directly, by electronic means, the information and documents referred to in paragraph 1.

**The central system shall facilitate the keeping of documents in accordance with Article 20.**

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>1</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 available at national level that allows for preparing and processing information and documents referred in paragraph 1 by competent authorities, authorities involved in inspections and, where appropriate, economic operators in the Member States and for the electronic submission and exchange of information and documents referred to in paragraph 1. The Member states** ~~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.

**The systems referred to in the first subparagraph shall facilitate the keeping of documents in accordance with Article 20.**

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 **available at national level** referred to in paragraph 3, 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

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<sup>1</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).

documents referred to in paragraph **1, taking into account the General Data Protection Regulation.**

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

*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. ~~The English language shall be considered acceptable by all competent authorities.~~
2. The notifier, **and where applicable, the person who arranges for the shipment and the consignee,** shall provide the competent authorities concerned with authorised translations of the **communications documents** referred to in paragraph 1 into a language ~~other than English~~ which is acceptable to them, where they so request.

*Article 28*

*Disagreement on classification issues*

1. **(a)** 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.
 

**(b)** 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.

**(c)** **When deciding whether an object or substance shall be considered as a used good and not as waste the assessment of the Member States shall at least be based on the following conditions:**

  - (i) Further use or reuse of the object or substance is certain,**

**Commented [SE 91]:** The PRES are aware of the duplications with WFD in Art 5 and 6, but the PRES is of the opinion that the text is needed in Art 28 as a clarification for stakeholders.

**Commented [SE 92]:** PRES considers this kind of criteria are relevant in Art 28, to be used by MS when there are diverging views. This does not exclude a possibility to add criteria in Art 58 for the purpose of inspections.  
The criteria listed in Art 28 are in line with the waste definition in WFD and judgements from ECJ.

- (ii) **The object or substance can fulfil its intended function without significant pre-processing,**
- (iii) **where relevant, the good or substance is tested to ensure its full functionality,**
- (iv) **Further use is lawful, i.e. the object or substance fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts,**
- (v) **The object or substance is properly protected and preserved during transport, loading and unloading.**

**1bis.2.** 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.

**1ter.** **The Commission may adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1(c) to specific substances or objects** ~~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 their distinction between used goods and waste is of particular importance for the export of waste from the Union.~~

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

2. If the competent authorities of dispatch and of destination cannot agree on the classification of a waste **destined for recovery** 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)~~.

**Commented [SE 93]:** Two MS suggests that, in the absence of harmonized end-of-waste criteria under the current EU legislation, that national end of waste criteria shall prevail.

PRES does not consider a deviation from the principle that the strictest assessment shall prevail can be justified. If on CA considers the object or substance to be waste, this assessment shall prevail.

It would be difficult to justify a system with mutual recognition based on national legislation concerning end-of-waste.

**Commented [Swe94]:** A reference to Art. 4(1) does not seem appropriate since all waste destined for disposal is subject to notification if not prohibited. This change had been made in document 10807/22 (text by the FR Pres).

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 harmonized 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 in order to 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.~~

- 4bis.** If the competent authorities of dispatch and destination cannot agree on the classification of the waste treatment operation as interim operation or non-interim operation, the provisions of this regulation on interim operations shall apply.

~~**4quater.** In cases of shipments that have been considered to be illegal and where no notification or information in accordance with Article 18 has been submitted, the competent authority in the country where the waste is discovered shall be considered as the competent authority of destination.~~

**Commented [SE 95]:** Deletion based on comments from MS after the WPE meeting on the 4th of april.

#### 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 the competent authorities concerned ~~or authorities involved in inspections~~ to the notifier ~~and, where relevant the person who arranges the shipment. Member States shall notify the Commission of provisions applied at national level in relation to such costs. The Commission shall make the information received publically available. National legislation to this end will be notified to the Commission, who will share such information online.~~

**Commented [SE 96]:** Proposed text to broaden the scope and clarify the provision.

*Article 30*

*Border-area ~~Bilateral~~ 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-members of the European Free Trade Association.~~
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 **(ies) of transit** 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

Commented [SE 97]: Could be more than one.

- (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 ~~OECD 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 **on which the notification has been considered properly completed in accordance with Article 8(5quinter), as referred to in Article 9(1)** of submission of the notification by the notifier in accordance with Article 5.

**Commented [SE 98]:** The PRES considers that this time limit should start when the notification has been properly completed, as the 30 day time limit according to Art. 9(1)

## Title III

**Transports** Shipments exclusively within a Member State

**Commented [SE 99]:** In line with definitions of shipment and transport respectively in Art 3

*Article 33*

*Regime for ~~shipments~~ **transports of waste** exclusively within a Member State*

1. Member States shall establish an appropriate regime for the supervision and control of **transports of waste** ~~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 **transports** ~~shipments~~ of waste. The Commission shall inform the other Member States thereof.

Obtenu par CONTEXTURE



## Title IV Exports from the Union to third countries

### Chapter 1

#### Exports of waste for disposal

##### *Article 34*

##### *Prohibition of exports of waste destined for disposal*

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)~~ **11(1)** 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 **in** 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 of waste destined for disposal 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 **and any requested additional request and the information and documentation in accordance with Article 5(3)**, and at the same time, provide **these it** by post, **or**

**Commented [SE 100]:** (a) and (b) merged. (b) deleted after having added "any requested additional information and documentatoin" in (a)

**if accepted by all parties involved, by fax or email with digital signature, to the concerned competent authorities concerned in the countries of destination and transit and destination**—outside the Union, unless those authorities are connected to ~~the a~~ 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)5(5), and at the same time, provide it by post, or if accepted by all parties involved, by 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);~~
- (bbis) the notifier shall provide, annexed to the notification document, documentary evidence that an audit as referred to in Article 43(2) has been carried out in the facility to which waste is being exported, unless the exemption in Article 43(8) applies;**
- (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, **or if accepted by all parties involved, by fax or email with digital signature, unless those competent authorities are connected to the a central system referred to in Article 26(2);**
- (d) ~~the a~~ 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~~ **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;
- (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 a~~ 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 a~~ competent authority

of transit **outside the Union**, 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~~ **a** competent authority of transit in the Union shall ~~send~~ **provide** an acknowledgment of receipt of the notification to the notifier and copies to the other competent authorities concerned; **in case they have no access to a system referred to in Article 26;**
- (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, **or if accepted by all parties involved, by 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~~ **that consent or its annexes** 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; **and**

- c) **without delay communicate the decision of the competent authority of dispatch referred to in (b) to the customs office of exit that discovered the illegal shipment.**

## 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 of hazardous and certain other wastes*

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 referred to in Article 4(2bis) and wastes listed in Part 2 of Annex V to this Regulation;

**(cbis) wastes listed in Annex III or Annex IIIB and mixtures of wastes listed in Annex IIIA that are contaminated by other materials to an extent that which increases the risks associated with the waste sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous properties in provisions of Article 7 and Annex III of Directive 2008/98/EC, or prevents the recovery of the waste in an environmentally sound manner;**

**Commented [SE 101]:** Changes made to be consistent with Annex V paragraph 3.

- (cter) **wastes or mixtures of wastes containing or contaminated with persistent organic pollutants (POPs) in quantities meeting or exceeding a concentration limit indicated in Annex IV to Regulation (EU) 2019/1021;**
- (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 **in** 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~~ **competent authority** concerned shall inform the envisaged ~~country~~ **competent authority** 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 **in case the information refers to an entry listed in the Basel Convention and to the OECD Secretariat in case the information refers to an entry listed in the OECD Decision.** On the basis of the information provided, the Commission may make comments and, ~~where appropriate,~~ **is empowered to adopt delegated acts** ~~adapt Annex V to this Regulation~~ in accordance with Article ~~72~~**76 to amend Annex V.**

**Commented [SE 102]:** CA seems better suited here since they take the decision that is mentioned here.

**Commented [SE 103]:** This addition seems relevant. Proposed by one MS. The Basel Secretariat should only be informed in case the information relates to a Basel entry; the OECD should be informed in case the information refers to an OECD entry.

## SECTION 2

### EXPORTS OF NON-HAZARDOUS WASTE TO COUNTRIES TO WHICH THE OECD DECISION DOES NOT APPLY

#### *Article 37*

#### *Prohibition of exports of non-hazardous waste*

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) **non-hazardous wastes listed in Annex III or Annex IIIB and mixtures of non-hazardous wastes listed in Annex IIIA;**
  - (b) non-hazardous wastes **and mixtures of non-hazardous wastes** 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;

- (c) **non-hazardous wastes and mixtures of non-hazardous wastes not classified under one single entry in Annex III, IIIA or IIIB or in the list of waste referred to in Article 7 of Directive 2008/98/EC;**

**(d) non-hazardous waste classified under AB130, AC250, AC260 and AC270.**

**Commented [SE 104]:** One MS wants to add the entries AB130, AC250, AC260 and AC270 to clarify that they are covered by the export prohibition in Art 37 for non-hazardous wastes. These wastes are listed in Annex IV, but are deleted/exempted from Annex V and the export prohibition in Article 36, since these waste have been assessed as non hazardous under WFD. Still, they are listed in Annex IV and not as non-hazardous in Annex III, IIIA or IIIB.

2. Paragraph 1 shall not apply to exports of wastes **or mixtures of waste, except to those which are prohibited in accordance with Article 36(1),** destined for recovery to a country included in the list of countries established in accordance with Article 38, for the **non-hazardous wastes and mixtures of non-hazardous wastes** specified in that list.

Such export may only take place on the condition that the waste is;

- a) destined to a facility licensed under the domestic legislation of the country concerned, to undertake recovery operations for that waste;
- b) **not destined for interim operations, unless any the subsequent non-interim or interim recovery operations will take place in the same country of destination;**
- ~~c) **not contaminated by other materials to an extent which increases the risks with the waste sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the provisions of Article 7 and Annex III of Directive 2008/98/EC, or prevents the recovery of the waste in an environmentally sound manner; and**~~
- ~~d) **not containing or contaminated with persistent organic pollutants (POPs) in quantities meeting or exceeding a concentration limit indicated in Annex IV to Regulation (EU) 2019/1021.**~~

**Commented [SE 105]:** Duplication with Art 36. can therefore be deleted.

3. Exports allowed in accordance with paragraph 2 shall;

- a) **for waste listed in Annex IX to the Basel Convention,** 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;~~**



b) for non-hazardous wastes and mixtures of non-hazardous wastes not listed in Annex IX to the Basel Convention, be subject to the procedure of prior written notification and consent.

4. In the case of exports in accordance with paragraph 2 subject to the procedure of prior written notification and consent, the procedures referred to in Article 35 shall apply with the following adaptations;

- a) Article 4(4) does not apply;
- b) when the removal of a country or the removal of certain wastes or mixtures of wastes from the list referred to in Article 38 has entered into force, the competent authority of dispatch shall withdraw their written consent for any notification related to such country or to such wastes or mixtures of wastes.

*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 ~~an delegated~~ **implementing act in accordance with Article 76 to supplement this Regulation by** to establishing a list of countries to which the OECD Decision does not apply and to which exports of non-hazardous waste, **and mixtures of non-hazardous wastes, except those which are prohibited in accordance with Article 36(1),** 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, **and have agreed to comply with Article 39(4).**

**The implementing act referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 77(2).**

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 wastes **and mixtures of non-hazardous wastes** from the Union for recovery is authorised;
- (b) the specific **non hazardous** waste(s) **and mixtures of non-hazardous wastes** 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 **and mixtures of 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 **that complies with the requirements set out in Article 39** ~~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 (a), (b), (c) and (d), based on a request received from the country concerned and, if that request concerns the addition of new waste **or mixtures of waste**, provided that the country concerned has demonstrated compliance with the requirements set out in Article 39 with respect to the new wastes **or mixtures of 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.~~

Commented [SE 106]: Moved to Art 39.

~~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~~ **Article 39(4)**, 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**(3)**.

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 **paragraph 6** ~~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.

**Commented [SE 107]:** One MS has proposed to further clarify the procedure and the legal consequences when a country has been removed from the list. PRES proposes a new para 8 in Art 9 to address this issue.

#### *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 **or mixtures of wastes** referred to in Article 37(1) from the Union for recovery shall submit a request to the Commission indicating their willingness to receive ~~that~~ **these specific wastes or mixtures of wastes** 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.

4. **In the event of any change to the information provided to the Commission under paragraph 3, the countries included in the list referred to in Article 38 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.**

*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 wastes **and mixtures of wastes** 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 operations ~~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;

**(b bis) shipments of waste referred to in Article 4(4) shall be subject to the procedural requirements of Article 18 where the amount of such waste has been determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and does not exceed 25 kg;**

(c) the export of waste referred to in Article 4(2**bis**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;

**(e) the consent to a shipment of certain waste in accordance with Article 9 shall be withdrawn by the competent authority of dispatch when an implementing act in accordance with Art 42.4 has been adopted and entered into force that prohibits the export of such waste to the country concerned.**

3. As regards exports of waste listed in Annex IV, the adaptations and additional provisions listed in Article 35(2), **points (a), (bbis) and (c)** and Article 35(3), points **(b)(a) to (g)(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~~

**Commented [SE 108]:** MS pointed out that export for disposal would not be allowed. However, it can also be argued that there is a need for information on all subsequent treatment of waste, also of residual fractions being disposed of. This is also current language (Article 38 current WSR). PRES propose to keep the wording

**Commented [SE 109]:** Added text, to clarify the procedure in situations where the export of waste to a certain country has been prohibited in accordance with Art 42.



~~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)

**Commented [SE 110]:** Proposed deletion and covered by a reference to Art 35(3)(b) to (g) in Art 41(3).

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.** ~~The provisions in Article 35(6) shall apply. 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

**Commented [SE 111]:** Since the text is identical to Art 35(6), this cross-reference seems sufficient.

**Commented [SE 112]:** Some MS express that this monitoring should not focus only or too much on the levels of export, why it has been proposed to delete "levels of".

The PRES notes that this deletion would risk to place an unreasonable burden on COM if they were to monitor all export of waste.

There is still a possibility for COM to act on information concerning the management of certain waste based on the second sentence of this paragraph.

**Commented [SE 113]:** For shipments of waste between OECD Member countries the OECD Decision applies. The aim of this Article is not to generally control the management of waste in other OECD countries. This Article mainly aims to ensure that waste can be dealt with in an ESM in another OECD-country especially in situations where the export of waste to a certain country increases of different reasons. This control could also include a follow up to information showing that export of certain waste to a specific country leads to serious environmental or human health damages.

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~~ **a country to which the OECD Decision applies concerned** has the ability to recover **certain** ~~this~~ waste in an environmentally sound manner as referred to in Article 56, **including due to a considerable increase of the export of such waste from the Union to the country concerned**, 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 in an environmentally sound manner as referred to in Article 56~~. 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 **in an environmentally sound manner**, 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 implementing acts in accordance with Article 76 to supplement this Regulation by~~ prohibiting the export of the waste concerned to this country. **That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).**

~~This~~ A 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 **notifier or person who arranges a shipment** ~~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 **notifier or person who arranges a shipment** ~~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, **either by commissioning an audit or make use of an audit made available in accordance with paragraph 5.**
3. The audit referred to in paragraph 2 shall **include both physical and documentary checks and shall** verify compliance of the facility concerned with the criteria laid down in Annex X.
- 3 bis.** A **notifier or person who arranges a shipment** ~~legal or natural person~~ shall not export waste to a facility which does not comply with ~~these~~ **the criteria laid down in Annex X.**
4. A **notifier or person who arranges a shipment** ~~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 **which has**

**demonstrated verifying compliance of the facility with the criteria in Annex X in accordance with paragraph 3** prior to exporting waste to the facility concerned. **The notifier or person who arranges a shipment shall ensure** and that the audit is repeated at regular intervals, **based on following a risk assessment risk-based approach**, with a minimum frequency of every three years after the first audit.

A **notifier or person who arranges a shipment** ~~natural or legal person~~ exporting waste from the Union shall also carry out **commission** 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. **In case an ad-hoc audit demonstrates that a facility no longer complies with the criteria laid down in Annex X, the notifier or the person who arranges the shipment shall immediately stop the export of waste to that facility and inform the competent authorities of dispatch concerned.**

5. A **notifier or a person who arranges a shipment** ~~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 **notifiers or persons who arranges a shipment** ~~natural or legal person~~ intending to export waste to the facility in question, under fair commercial conditions.

5 bis. A **notifier or a person who arranges a shipment** shall notify the Commission of audits they have commissioned in accordance with paragraph 2 and 4, **and which have demonstrated compliance of a facility with the criteria laid down in Annex X.** The notification shall contain the following information:

- (a) **name and contact details of the facility that has been subject to an audit;**
- (b) **name and contact details of the notifier or the person who arranges the shipment** ~~the natural or legal person~~ that has commissioned the audit;
- (c) **name and contact details of the third party that has carried out the audit;**
- (d) the date of the audit;
- (e) **the types of wastes, as listed in Annexes III, IIIA, IIIB or IV or in the list of waste referred to in Article 7 of Directive 2008/98/EC;**
- (f) **the recovery operations (R-codes), as referred to in Annex II of Directive 2008/98/EC.**

- 5 ter. **The Commission shall establish and keep up to date a register with information on facilities received in accordance with paragraph 5 bis on facilities that have been subject to an audit in accordance with paragraph 2 verifying compliance in accordance with paragraph 3. The Commission shall make the information in the register publicly available.**

**The fact that a facility is included in the register referred to in the first subparagraph, is not sufficient to demonstrate compliance with this Article or the criteria laid down in Annex X.**

6. Upon request by a competent authority or an authority involved in inspections, a **notifier or a person who arranges a shipment** ~~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. **A notifier or a person who arranges a shipment** ~~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, **notifiers or persons who arranges the shipment** ~~natural and legal persons~~ which intend to export waste to that third country shall be exempted from the obligation in paragraphs 2, **3, 3bis, 4, 5, 5bis and 6.**
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. **In case of exports from the Union**, 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 **and that exported waste is managed in an environmentally sound manner**.

~~2. Member States shall carry out regular verifications, following a risk-based assessment 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.~~

**Commented [SE 114]:** Support from some MS that this point para could be deleted. The PRES considers this provision already covered by Art 57(1). The PRES believes that regular verifications or assessments are a part of the obligation in Art 43.

## 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 of waste destined for disposal*

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(1); and **with Article 13 of Directive**



**2008/98/EC and other Union legislation on waste, in particular the Union legislation referred to in Annex IX part 1;**

- (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; ~~and-~~
  - (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 of waste destined for disposal*

1. Where waste destined for disposal is imported into the Union from countries that are Parties to the Basel Convention, **or in cases referred to in Article 47(1) point (d)**, 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 a notifier that 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~~ **may submit the notification and any requested additional information and documentation referred to in Article 5(3) shall be provided to the competent authorities concerned by post, or if accepted by all parties involved, by 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)5(5) in accordance~~

**Commented [SE 115]:** Deletion proposed by one MS. text merged with para 2(a)

~~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, **or if accepted by all parties involved, by 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 4746(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:

**(aa) the competent authority of destination may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount covered by any financial guarantee or equivalent insurance established by the notifier;**

**Commented [SE 116]:** In accordance with Art 6(11) of the BC, that states of import and/or transit are responsible for requiring an insurance or other guarantee for the shipment. Of this reason it seems necessary to include a possibility for the CA of destination within the EU to review the financial guarantee, if there is one, and if necessary require an additional financial guarantee. Not including this provision could be seen as if MS give up the right/or do not fulfil their responsibility according to BC to ensure that there is a financial guarantee.

- (a) ~~the~~ a 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 **in case they have no access to a system referred to in Article 26**;
- (b) the competent authorities of destination and ~~any, where appropriate,~~ **competent authority of** 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 **or if accepted by all parties involved, by 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 **or its annexes** 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 ~~33-56(4)~~ 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; (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; **and**

**(c) without delay communicate the decision of the competent authority of dispatch referred to in (b) to the customs office of exit that discovered the illegal shipment.**

6. Where waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations is ~~imported~~ **shipped**, by those armed forces or relief organisations or **by a natural or legal person** on their behalf, **those armed forces or relief organisations shall inform** any competent authority of transit and the competent authority of destination in the Union, **or in urgent cases where the disposal or recovery facility is not known at the time of the shipment, the competent authority responsible for the area of the first place of destination shall be informed** in advance concerning the shipment and its destination.

**The information provided according to the first subparagraph shall accompany the shipment, unless it is provided via a system in accordance with Article 26.**

## Chapter 2

### Imports of waste for recovery

#### *Article 49*

#### *Prohibition of imports of waste destined for recovery*

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 or from other areas during situations of crisis or war*

1. Where waste destined for recovery is imported into the Union from countries and through countries to which the OECD Decision applies, **or in cases referred to in Article 49(1) point (e)**, 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;
  - (abis) **shipments of waste referred to in Article 4(4) shall be subject to the procedural requirements of Article 18 when the amount of such waste has been determined by the minimum quantity reasonably needed to**

**Commented [SE117]:** Proposed addition - "and for imports referred to in Article 49(1) point (e). Without this addition the following paragraphs only refer to imports from countries Parties to the Basel Convention.

adequately perform the analysis in each particular case, and does not exceed 25 kg;

~~(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.~~

**(bbis) The provisions in Article 48(2), points (a) to (e).**

**Commented [SE 118]:** Proposed to be deleted in Art 50(3) and moved up to Art 50(2) since this is about adaptations and not "additional provisions".

3. The following additional provisions shall apply: ~~Article 48(2), points (a) to (e), and Article 48(3), points (aa), (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 **written consent or its annexes or in the** respective decisions have been met;

~~(b) the conditions specified in Article 48(4), points (b), (c) and (d) 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. **The provisions in Article 48(5) and (6) shall apply.** ~~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 competent authorities of destination in the Union ~~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 **in an environmentally sound manner, 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, **in particular the Union legislation referred to in Annex IX part 1**, 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 of transit**.
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;
- (c) **the competent authorities of transit in the Union may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount covered by the financial guarantee or equivalent insurance established by the notifier. and approved by the competent authority of dispatch.**

#### 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:

**Commented [SE 119]:** Several MS is against this addition since they believe this will be hard to implement in practice and that this will put an administrative burden on CA of transit. Also questions has been raised on how this will work when there is more than one CA of transit.

The PRES notes that this is a right for the MS of transit in accordance with Art 6(11) of BC. If we decide not to include this provision the MS of transit could be seen as giving up their right to require an additional financial guarantee or equivalent insurance when waste is transiting the union.

- (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.

**(c) Where waste is shipped through one or more Member States from and to a third country the competent authorities of transit in the Union may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount covered by the financial guarantee or equivalent insurance established by the notifier, and approved by the competent authority of dispatch.**

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;

~~4. **Where waste is shipped through Member States from and to a third country the competent authorities of transit in the Union may, if necessary, require an additional financial guarantee or equivalent insurance, after having reviewed the amount covered by the financial guarantee or equivalent insurance established by the notifier, and approved by the competent authority of dispatch.**~~

**Commented [SE 120]:** Several MS is against this addition since they believe this will be hard to implement in practice and that this will put an administrative burden on CA of transit. Also questions has been raised on how this will work when there is more than one CA of transit.

The PRES notes that this is a right for the MS of transit in accordance with Art 6(11) of BC. If we decide not to include this provision the MS of transit could be seen as giving up their right to require an additional financial guarantee or equivalent insurance when waste is transiting the union.

**Commented [SE 121]:** Moved up to Art 55(2)(c)

## 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, **as well as any residual waste generated through the recovery or disposal operation,** 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. **In order to perform this assessment in relation to Union legislation, the relevant provisions in the Union legislation and the international guidance referred to in Annex IX shall be used as points of reference.**

**Commented [SE 1]:** Proposed in line with Art 12 and other provisions.

## 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, **ensure that 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, **are carried out**.
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, **collector, waste holder, or notifier or person who arranges the shipment;**
  - (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.

**Commented [SE 2]:** This chapter contains provisions on enforcement - inspections, penalties etc. The understanding of the PRES is that provisions on implementation and cooperation on implementation issues do not belong in this chapter.

Some MS proposes adding implementation and cooperation on implementation issues in this chapter. Possibly something about such cooperation could be added to Art 72, related to the designation of correspondents.

Implementations issues are also intended to be taken care of within the comitology process.

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.

**In order to distinguish between used goods and waste, for the purpose of inspection, the criteria laid down in, and pursuant to, Article 28(1)(c), (1bis) and (1ter) shall apply.**

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>1</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, **and may detain the goods in a shipment and, when necessary, the means of transport containing the goods, and ~~or~~ suspend the execution of the transport of the goods until such documentation has been provided.**

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

**Commented [SE 3]:** Article 28 contain provisions to be applied of and between CAs on classification issues. As mentioned by several MS also inspection authorities need such criteria to distinguish between used goods and waste. Some MS have proposed that such criteria should be placed in Title VII and not in Art 28. PRES proposes as a compromise to insert this reference to Art 28 in Art 58.

**Commented [Swe4]:** Some MS proposes to add a possibility to detain also the means of transport containing the goods. PRES considers this could be useful but also notes that it is a far reaching measure

<sup>1</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).

**export from the Union, documentary evidence on the audit carried out in accordance with**

**Article 43**

6. Where the evidence referred to in paragraphs 4 and 5 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>1</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>2</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 are established, 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, **including relevant information related to the management of waste being exported**. 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.

<sup>1</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>2</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).

**Commented [SE 5]:** One MS has proposed including a reference to the audit report in accordance with art 43. PRES considers this would also be necessary to make this provision compatible with Art 43. Only within the EU documentary evidence shall be provided by the facility.

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;
  - (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. **Without prejudice to the obligations of Member States under 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**, 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.~~

**Commented [Swe6]:** PRES proposes compromise text, as close to Art 79 IED as possible and also taking into account the provisions of the Environmental Crime Directive.

Certain provisions and wording, differ from IED, based on discussions between MS and on the evaluation of the WSR showing that current provisions on penalties need to be improved and harmonised.

**Commented [Swe7]:** PRES proposes deletion here and instead a new subparagraph 4 in the end of this Article with a slightly different wording. In line with IED(See IED Article 79.4

2. ~~When determining the type and level of penalties established pursuant to this Article to be imposed in case of infringements, the competent authorities of the Member States shall~~ **ensure that the penalties established pursuant to this Article** give due regard ~~at least~~ to the following, **as applicable where appropriate** criteria:

- (a) the nature, gravity and ~~extent~~**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 its cooperation of the natural or legal person held responsible with the competent authority, where in favour of that person;~~
- (h) **the repetitive or singular character of the infringement**~~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 ~~administrative~~ penalties in case of infringements of this Regulation, **where relevant**:

- (a) fines;
- (b) ~~confiscation of revenues gained by the natural or legal person from a transaction related to the infringement;~~
- (c) **time-limited** 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;

**Commented [Swe8]:** Deleted. In line with Art 79 IED.

**Commented [Swe9]:** The wording in IED is slightly different, but the PRES considers this wording is better here for the purposes of WSR.

**Commented [Swe10]:** PRES proposes deletion. As in Art 79 IED.

**Commented [Swe11]:** Wording in line with Art 79 IED.

**Commented [Swe12]:** There is no corresponding paragraph in IED. However, PRES proposes to keep some parts of para 3 here in WSR, in order to harmonise and improve the implementation of provisions on penalties.

By adding "as applicable" the PRES understanding is that the penalties specifically mentioned here are possible to apply related to certain infringements. Its not an obligation. Also it doesnt say which infringements they would apply to, its up to the MS to decide.

**Commented [SE 13]:** Proposed deletion, supported by several MS. Confiscation from revenues are often part of criminal proceedings. Administrative proceedings often involves a non-judicial process. Confiscation of revenues results in the final deprivation of property which generally must be ordered by a court. (Confiscation and freezing of instrumentalities and proceeds from the criminal offences is also a part of the proposed Env Crime Directive Art 10). It is important to bear in mind that this para only contains minimum requirements and leaves open to the MS to apply other penalties.



(d) **time-limited** exclusion from public procurement procedures.

**4. Member States shall without undue delay notify the Commission of the rules and measures referred to in paragraph 1 and of any subsequent amendments affecting them.**

Commented [Swe14]: Addition in line with Art 79 IED.

## SECTION 2 ENFORCEMENT COOPERATION

### Article 61

#### *Enforcement cooperation at national level*

Member States shall **maintain or** establish, as regards all relevant ~~competent~~ authorities involved in enforcement of this Regulation **in their territory, including competent authorities and the authorities involved in inspections**, 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.

Commented [SE 15]: Such mechanisms may exist already

### 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~~ **related to such prevention and detection** 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 **the authority or authorities and the** ~~these~~ members of their permanent staff responsible for the cooperation referred to in paragraph 1 and **also identify an authority or authorities and responsible members of their permanent staff as the focal points** for the physical checks referred to in Article 58(1). **The Member States shall send that information** ~~shall be sent to the Commission which shall compile the information and make it available to distribute to the identified authorities and their members of their permanent staff. a compiled list.~~
3. At the request of **an authority in** another Member State, **an authority of 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.

Commented [SE 16]: Focal point pointed out as unclear. PRES proposes clarification in this way.

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 **up to three representatives per Member State**, selected from the designated permanent staff responsible for the cooperation referred to in Article 62(2) **or from permanent staff of other** ~~and may also include further representatives of each Member State's relevant authorities with responsibility for~~ **involved in** enforcement of this Regulation, **to be nominated by the Member States, which will inform the Commission**. It shall be **co**-chaired by the representative(s) of the Commission **and by a representative of a Member State elected by the group**.
3. The waste shipment enforcement group shall be a forum for sharing **information relevant for the prevention and detection of illegal shipments, including** information and intelligence on general trends relating to illegal shipments of waste, risk-based assessments carried out by **the authorities of the Member States**, and **experience and knowledge on enforcement activities measures**, 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 **regularly**, at least ~~twice~~ **once** a year. **The group shall cooperate with other relevant institutions, bodies, offices, agencies, or networks**. 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. **In case the committee referred to in Article 77 raises any questions to the waste shipment enforcement group**, ~~t~~he Commission shall convey the opinions expressed in the waste shipment enforcement group **in relation to such questions** to the committee referred to in Article 77.

**Commented [SE 17]:** It has been proposed by some MS to include also implementation issues in this group. PRES considers that this group, in line with COM proposal, has a specific purpose and shall only deal with enforcement issues. There will be a need for an expert group for the Commission to consult for the adaption of delegated acts and for dealing with implementation issues.

**Commented [Swe18]:** PRES proposes to include a limitation to the number of representatives. Otherwise there are no limitations to refer to when the MS shall nominate and there are no provisions on how to establish this kind of group, as there is for expert groups.

**Commented [Swe19]:** Proposed clarification by one MS

**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 **in order to support and complement the enforcement activities of the Member States and to contribute to a uniform implementation of this Regulation throughout the Union.**
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>1</sup>, Council Regulation 515/97<sup>2</sup>, or Council Regulation 2185/96<sup>3</sup>.~~
3. The Commission may exercise the powers conferred onto it by this Regulation ~~on its own initiative,~~ **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 shipments of a complex nature that have a cross-border dimension involving at least two countries and potentially have serious adverse effects on human health or the environment and where the investigation needed** ~~have a cross-border dimension involving at least two countries and.~~ **The Commission may exercise these powers on its own initiative,** on the request of **the authorities of** one or more Member States, or on a complaint if there is sufficient suspicion that the carriage of the substance or object

**Commented [SE 20]:** Two MS proposed deletion of "on its own initiative".

The COM may only act together with the authorities or by the request from the authorities in a MS. This would preserve the competences of the MS. OLAF has explained the need for being able to act on its own initiative when it comes to starting up and performing investigations. However, the right to perform inspections can be more restricted, as proposed below.

<sup>1</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 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>2</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>3</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).

concerned or the shipment of waste concerned constitutes an illegal shipment. **The Commission may also forward such complaints to the competent authorities of the Member States concerned.**

**If the Commission decides not to act, it shall reply to the authority of the Member States or the persons who sent the complaint in a reasonable time, stating the reasons why they believe there is no sufficient suspicion, unless there are reasons of public interest, such as protecting the confidentiality of legal proceedings of the inspections, not to do so.**

**The Commission shall also provide the Member States with assistance in organising close and regular cooperation between their competent authorities pursuant to the provisions of Article 68.**

- ~~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 **or legal proceedings** in progress or already carried out in respect of the same shipments by **the authorities of** a Member State pursuant to this Regulation ~~and shall ensure not to unduly interfere with such legal proceedings.~~
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 **of the Member States**, 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~~ **authorities** and shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative ~~inspectors~~ **authorities** and shall have the same evidentiary value as such reports;

**Commented [Swe21]:** One MS wants to delete of the following reasons:  
This sentence is consistent with the first sentence of Art. 1.2 of Regulation 883/2013. However, we could not find a corresponding provision in Regulation 515/97. Therefore, we think that this subpara should be deleted. This provision does not seem necessary since Article 68 refers to Regulation 515/97 and thus covers the regulatory content.

**Commented [Swe22]:** The PRES understanding is that legal proceedings include the prosecution.

**Commented [Swe23]:** Some MS have proposed the deletion of "unduly". PRES proposes to delete this part of the sentence. The COM ska take into account ongoing inspections and legal proceedings. Other limitations follow from i.a. para 6. It should be obvious that the COM will not interfere with national legal proceedings when exercising its powers

- (c) in judicial proceedings before the Court of Justice of the European Union.

**The power of the CJEU and national courts and competent authorities to freely assess the evidential value of the reports drawn up by the Commission according to paragraph 6 shall not be affected by this Regulation.**

*Article 65*

*Inspections by the Commission*

1. The Commission may, **in accordance with Article 64**, carry out inspections of shipments pursuant to Article 57(2) **and apply Article 58(1), (2), (4) and (5)** of this Regulation.

**1bis. The Commission may only carry out an inspection where there is sufficient suspicion for an illegal shipment of waste.**

2. The Commission shall prepare and conduct inspections in close cooperation with the relevant authorities of the Member State concerned. **Such cooperation shall include the exchange of information and the exchange of views on the planning of the inspections and the steps that will be taken. The Commission shall take into account any inspections or ongoing legal proceedings by administrative or judicial authorities of a Member State.**

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~~ **relevant** authorities may provide the requisite assistance. To that end, officials of the **relevant authorities of the** Member State concerned ~~may~~ **shall be given opportunity to** participate in the inspections.

In addition, upon request of the Member State concerned, the inspections ~~may~~ **shall** 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 **notifier, the person** who arranges the shipment, **the waste producer** the **waste** holder, the carrier, the consignee or the facility that receives the waste;

**Commented [Swe24]:** Proposed addition, by one MS. The addition of these parts of Art 58 should be relevant if the purpose is to give the Commission the mandate to perform the same "type" of inspections as the authorities in the MS, but not to follow-up the inspections by taking decisions or other measures (Art 64.6).

- (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 waste producer**, the **waste** 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 waste producer**, the **waste** 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 producer**, 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 producer**, the waste holder, the waste carrier, the consignee and the facility that receives the waste are required to submit **themselves** to inspections of the Commission.
  8. Where the Commission finds that the notifier, the person who arranges the shipment, **the waste producer**, the waste holder, the waste carrier, the consignee or the facility that receives the waste opposes an inspection, the **relevant authorities of 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.

**The invitation to an interview shall be sent to a the person in question concerned with at least 10 working days notice. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the inspection.**

**In the latter case, the notice period shall not be less than 24 hours. The invitation shall include a list of the rights of the person concerned, in particular the right to be assisted by a person of his/her choice.**

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~~ **make available** 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, **the second sentence of Article 58(6) 58(5)** shall apply, *mutatis mutandis*.

#### **Article 67**

##### *Procedural guarantees*

1. The Commission shall carry out inspections and request information ~~in full respect~~ **in compliance with** of the procedural guarantees of the **notifier, the person who arranges the shipment, the waste producer, the waste holder, the waste carrier, the consignee or the facility that receives the waste set out in this Article. including:**
- 1bis. The notifier, the person who arranges the shipment, the waste producer, the waste holder, the waste carrier, the consignee or the facility that receives the waste shall have:**
- (a) the right not to make self-incriminating statements;
  - (b) the right to be assisted by a person of choice;

**Commented [SE 25]:** Some MS have pointed out that the use of the term "person concerned" in Art. 66(2) may not be appropriate, considering the specific meaning of this term in Regulation 883/2013 (Article 2(5)) and the anti-fraud domain.

PRES proposes to replace with the "person in question."

**Commented [Swe26]:** One MS opposes to the time limit of 10 working days since this would be against their national legislation.

PRES understanding is that the EU Regulations prevails and that an interview in accordance with this article is performed by the COM, under the COM mandate, not by national authorities, even if national authorities may assist the COM.

**Commented [SE 27]:** This Article has been amended according to discussions in the WPE on the need to add text on the right to be heard.

- (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, **once the inspection has been completed and before the adoption of a report pursuant to Article 64(6). The invitation to comment shall include a summary of the facts concerning the person in question and shall indicate an adequate time limit for submitting comments. In duly justified cases where necessary to preserve the confidentiality of the inspection or of an on-going or future criminal investigation by a national authority, the Commission may decide to defer the invitation to comment;**
- (e) the right to receive a copy of the record of interview and either approve it or add observations;
- (e1) **where the Commission has made judicial recommendations pursuant to Article 64(6), and without prejudice to the confidentiality rights of whistle-blowers and informants, and in accordance with the applicable confidentiality and data protection rules, the person in question may request the Commission to provide the report drawn up under Article 64(6) to the extent that it relates to that person. The Commission shall grant access only with the explicit consent of all recipients of the report.**

The Commission shall seek evidence for and against the **notifier**, the person who arranges the shipment, **the waste producer**, 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 **ensure the carry out inspections and request information in full respect of applicable confidentiality of the inspections, of the interview and of the request carried out pursuant to this section. Information transmitted or obtained in the course of the inspections, interview and requests pursuant to this section shall be subject to and Union data protection rules.**

#### *Article 68*

#### *Mutual assistance*

1. ~~In order to ensure compliance with the relevant requirements set out in this Regulation, the relevant authorities of the Member States and the Commission shall provide each other assistance in accordance with this Article.~~
2. ~~Within the scope of Article 2(1) For the purposes of applying this Regulation 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, except for Article 2a, Articles 18a to 18e, Titles IV to VII, and the Annex, shall apply *mutatis mutandis* to the cooperation between the competent national relevant authorities of the Member States and Union authorities the Commission implementing this Regulation the provisions in this section; 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~~ **submit to** 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 **calendar** year, based on the additional reporting questionnaire in Annex XI, and ~~send~~ **submitted** it to the Commission. Within a month of ~~trans~~**submission** of that report to the Commission, Member States shall make the section of that report relating to Articles ~~24~~, 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 **1 and 2**.
4. The information referred to in paragraph **1 and 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 XI*

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 and XI~~ in order to take account of changes agreed under the Basel Convention and the OECD Decision, and 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 provided that the composition of those mixtures ~~wastes are not mixed to an extent which prevents their recycling in an~~ does not impair their environmentally sound recovery manner, and, where necessary, ~~it is demonstrated that the mixture of waste in question will be managed in an environmentally sound manner within the Union or in countries to which the OECD Decision applies,~~ provide that one or more of the entries in Annex IIIA shall ~~only not~~ apply for **shipments between Member States, or shall not apply for** exports to countries to which the OECD Decision does not apply.

**Commented [Swe28]:** As proposed by one MS, wording more in line with Art 4.3.b.

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 **non-hazardous** wastes not listed in Annex III, Annex IV or Annex V, where those wastes are not mixed to an extent which prevents their recycling in an environmentally sound manner ~~and,~~ where it is demonstrated that the waste in question will be managed in an environmentally sound manner within the Union or in countries to which the OECD Decision applies, provide that one or more of the entries in Annex IIIB shall **only** apply for **shipments between Member States or shall not apply** for exports to countries to which the OECD Decision does not apply.

**Commented [Swe29]:** Deletion, as proposed by one MS, since Annex IIIB does not list mixtures.

4. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend **Annex VIII as regards** the form and content of the information referred to in that Annex, based on experiences gained during implementation ~~and to update the form and information therein that Annex~~ regarding Union legislation and international guidance as regards environmentally sound management on the basis of developments in the relevant international fora or at Union level ~~and to take account of scientific and technical progress.~~

**Commented [Swe30]:** Proposal by one MS to broaden the mandate

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 **on the basis of developments in the relevant international fora or at Union level.**

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, based on experiences gained during implementation ~~and to update the information therein that Annex~~ regarding Union legislation and international guidance **on the basis of developments in the relevant international fora or at Union level as regards environmentally sound management and to take account of scientific and technical progress.**

**Commented [Swe31]:** Proposed by one MS to broaden the mandate

*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), **36(5)**, 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), **36(5)**, 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), **36(5)**, 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.

**Commented [SE 32]:** Adjustments may be necessary depending on the outcome in relation to these provisions. Also relevant for Art 76 (3), (6)

*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

##### Amendments to Regulation (EU) No 1257/2013

1. In Article 3(2) of Regulation (EU) No 1257/2013, the chapeau is replaced by the following:  
“For the purposes of Article 6(2)(a), Article 7(2)(d) and Articles 13, 15 and 16,”

1.

2. 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 are considered as hazardous which become waste and that exported from 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

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

“(iv) **Article 9(2)**, 16(1) and Article 18(~~1bis~~) 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;”

**Commented [Swe33]:** Currently, there is a reference to point (c) of Art. 16 which covers “the movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned”. The reference to Art. 16(1) would only cover the movement document. Therefore, an additional reference to Art. 9.2 should be added to cover the written consents and the conditions.

2. In Article 5, a paragraph 1a shall be inserted, as follows:

“By way of derogation to paragraph 1, competent authorities shall accept regulatory information, including additional information, pursuant to Regulation (EU) No [OP please insert the number of this act] as from 24 months after the date of entry into force of that Regulation [n° new WSR].” (to be aligned with final compromise on date of application of obligation for authorities in Art 82 new WSR)

3. In Article 7, a paragraph 3a shall be inserted, as follows:

“By way of derogation to paragraph 3, elements referred to in paragraph 1 that are related to information requirements set out in the provisions referred to in point (iv) of Article 2(1)(a) shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR].”

4. In Article 8, a paragraph 3a shall be inserted, as follows:

“By way of derogation to paragraph 3, elements referred to in paragraph 1 that are specifically related to the accessing and processing by the authorities of regulatory information in relation to requirements set out in the provisions referred to in point (iv) of Article 2(1)(a), including the communication with the economic operators in relation to that information, shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR].”

5. In Article 9, a paragraph 2a shall be inserted, as follows:

“By way of derogation to paragraph 2, elements referred to in paragraph 1 that are specifically related to the processing of regulatory information in relation to requirements set out in the provisions referred to in point (iv) of Article 2(1)(a) shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR].”

#### 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 ~~six~~ twelve 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(1), ~~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 **for which a notification has that have been notified submitted** in accordance with Article 4 of that Regulation and for which ~~has been considered properly completed by~~ the competent authority of destination has given its acknowledgement in accordance with Article 8 of that Regulation before [OP: Please

**Commented [SE 34]:** Article 81 and 82 need to be consequentially amended with other Articles depending where substantial changes have been made.

**Commented [SE 35]:** The PRES proposes 12 months as a compromise after the discussions at the WPE on the 4th of April.

insert the date twelve months after the date of entry into force of this Regulation]. For those shipments, the provisions of this Regulation shall not apply.

**2bis.** Commission Regulation (EC) No 1418/2008 is repealed with effect from [OP: Please insert the date three years after the date of entry into force of this Regulation ].

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].

**3.bis** Shipments for which the competent authorities concerned have given their consent in accordance with Article 14(2) of Regulation (EC) No 1013/2006 shall be completed not later than three years from [OP: Please insert the date three years after the date of entry into force of this Regulation].

**Commented [SE 36]:** Some MS point out that paragraph 3 does not take into account notifications that have been authorised for pre-consent facilities and that, therefore, may have a validity of more than one year. The PRES proposal of Art 81(3bis) is therefore proposed.

**3.ter** A pre-consent of a facility in accordance with Article 14 of Regulation (EC) No 1013/2006 shall cease to be valid not later than five years from [OP: Please insert the date five years after the date of entry into force of this Regulation].

**Commented [Swe37]:** Relevant for the existing pre-consents

#### 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 [OP: Please insert the date ~~six~~twelve months after the entry into force of the Regulation].

**Commented [SE 38]:** The PRES proposes 12 months as a compromise after the discussions at the WPE on the 4th of April.

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 and 60 shall apply 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], and Article 79, paragraphs (3), (4) and (5) shall apply from 20 August 2020.

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

**ANNEX IA**

**Notification document for transboundary movements/shipments of waste**

<b>1. Exporter - Notifier</b> Registration N°: Name: Address:  Contact person: Tel: Fax: Email:	<b>3. Notification N°:</b>  <b>Notification concerning</b> A.(i) Individual shipment: <input type="checkbox"/> (ii) Multiple shipments: <input type="checkbox"/> B.(i) Disposal (1): <input type="checkbox"/> (ii) Recovery: <input type="checkbox"/> C. Pre-consented recovery facility (2;3) Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>2. Importer - Consignee</b> Registration N°: Name: Address:  Contact person: Tel: Fax: Email:	<b>4. Total intended number of shipments:</b> <b>5. Total intended quantity (Tonnes (Mg)/litres) (4):</b> <b>6. Intended period of time for shipment(s) (4):</b> First departure: Last departure: <b>7. Packaging type(s) (5):</b> <b>Special handling requirements (6):</b> Yes: <input type="checkbox"/> No: <input type="checkbox"/> <b>11. Disposal / recovery operation(s) (2)</b>
<b>8. Intended carrier(s)</b> Registration N°: Name(7): Address:  Contact person: Tel: Fax: Email: Means of transport (5):	D code / R code (5): Technology employed (6):  Reason for export (1;6):
<b>9. Waste generator(s)-producer(s) (1;7;8)</b> Registration N°: Name: Address:  Contact person: Tel: Fax: Email: Site & process of generation (6)	<b>12. Designation and composition of the waste (6):</b>  <b>13. Physical characteristics (5):</b>  <b>14. Waste identification (fill in relevant codes)</b> (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EU list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (5): (ix) UN class (5): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):
<b>10. Disposal facility (2):</b> <input type="checkbox"/> <b>or Recovery facility (2):</b> <input type="checkbox"/> Registration N°: Name: Address:  Contact person: Tel: Fax: Email: Actual site of disposal/recovery:	
<b>15. (a) Countries/states concerned, (b) code N° of competent authorities where applicable, (c) specific points of exit or entry (border crossing or port)</b>	

State of Export - <u>dispatch</u>	State(s) of Transit (entry and exit)		State of Import - <u>Destination</u>
(a)			
(b)			
(c)			
<b>16. Customs offices of entry and/or exit and/or export: (European Union):</b>			
	Entry:	Exit:	Export:
<b>17. Exporter's - Notifier's / Generator's - producer's (1) declaration:</b>			
I certify that the information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.			<b>18. Number of annexes attached</b>
<b>Exporter's - notifier's name:</b>	Signature:		
<b>Generator's - producer's name:</b>	Signature:		
Date:			
<b>FOR USE BY COMPETENT AUTHORITIES</b>			
<b>19. Acknowledgement from the relevant competent authority of countries of import - destination/ transit (1) / export - dispatch (9):</b>		<b>20. Written consent (1;8) to the movement provided by the competent authority of (country):</b>	
Country:		Consent given on:	
Notification received on:		Consent valid from:	
Acknowledgement sent on:		Specific conditions: No: <input type="checkbox"/> until: <input type="checkbox"/>	
Name of competent authority:		Name of competent authority:	
Stamp and/or signature:		Stamp and/or signature:	
<b>21. SPECIFIC CONDITIONS ON CONSENTING TO THE MOVEMENT OR REASONS FOR OBJECTING</b>			

(1) Required by the Basel Convention

(2) In case of R12/R13 or **D8, D9** or D13-D15 operation, also attach corresponding information **on any subsequent R12/R13 or D8, D9, 13-D15 operation and** on the subsequent R1-R11 or D1-**D7, D10**-D12 facility(ies) when required.

(3) To be completed for movements within the OECD area and only if B(ii) applies.

(4) Attach detailed list if multiple shipments

(5) See list of abbreviations and codes on the next page

(6) Attach details if necessary

(7) Attach list if more than one

(8) If required by national legislation

(9) If applicable under the OECD Decision

Obtenutu par CONFEXTE

### List of Abbreviations and Codes Used in the Notification Document

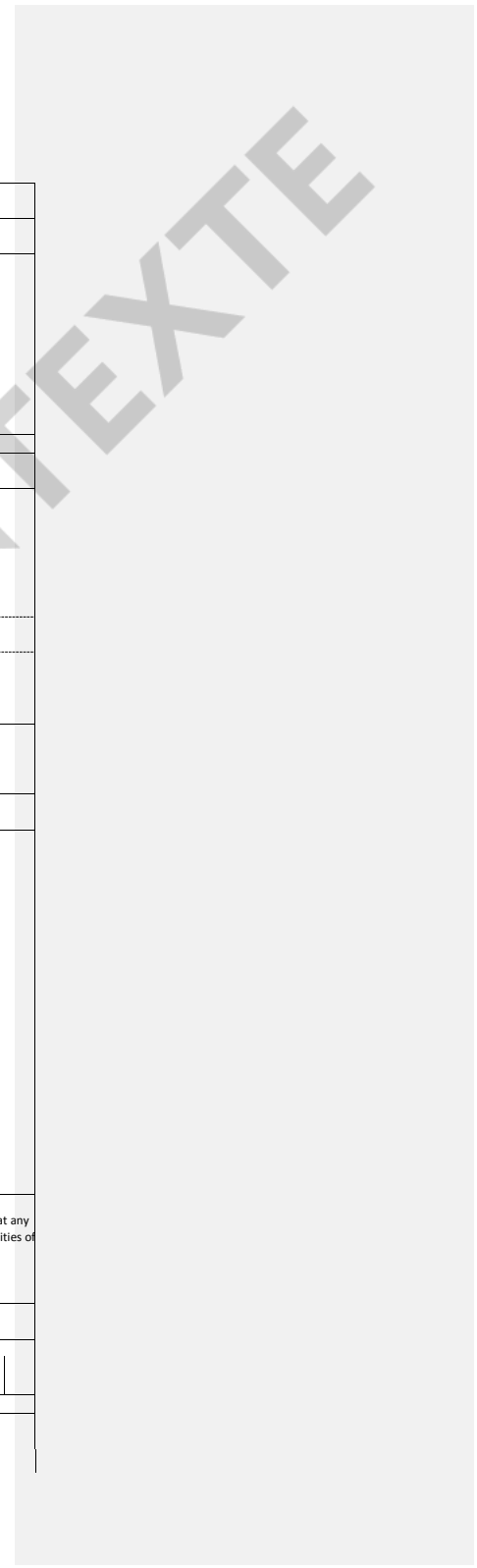
<b>DISPOSAL OPERATIONS (Block 11)</b>		
D1	Deposit into or onto land, (e.g., landfill, etc.)	
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)	
D3	Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)	
D4	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)	
D5	Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)	
D6	Release into a water body except seas/oceans	
D7	Release into seas/oceans including sea-bed insertion	
D8	Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list	
D9	Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.)	
D10	Incineration on land	
D11	Incineration at sea	
D12	Permanent storage, (e.g., emplacement of containers in a mine, etc.)	
D13	Blending or mixing prior to submission to any of the operations in this list	
D14	Repackaging prior to submission to any of the operations in this list	
D15	Storage pending any of the operations numbered in this list	
<b>RECOVERY OPERATIONS (Block 11)</b>		
R1	Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) – Use principally as a fuel or other means to generate energy (EU)	
R2	Solvent reclamation/regeneration	
R3	Recycling/reclamation of organic substances which are not used as solvents	
R4	Recycling/reclamation of metals and metal compounds	
R5	Recycling/reclamation of other inorganic materials	
R6	Regeneration of acids or bases	
R7	Recovery of components used for pollution abatement	
R8	Recovery of components from catalysts	
R9	Used oil re-refining or other reuses of previously used oil	
R10	Land treatment resulting in benefit to agriculture or ecological improvement	
R11	Uses of residual materials obtained from any of the operations numbered R1-R10	
R12	Exchange of wastes for submission to any of the operations numbered R1-R11	
R13	Accumulation of material intended for any operation in this list.	
<b>PACKAGING TYPES (Block 7)</b>		<b>H CODE AND UN CLASS (Block 14)</b>
1. Drum	UN Class	H code Characteristics
2. Wooden barrel	Class	
3. Jerrican	1	H1 Explosive
4. Box	3	H3 Flammable liquids
5. Bag	4.1	H4.1 Flammable solids
6. Composite packaging	4.2	H4.2 Substances or wastes liable to spontaneous combustion
7. Pressure receptacle	4.3	H4.3 Substances or wastes which, in contact with water, emit flammable gases
8. Bulk		
9. Other (specify)	5.1	H5.1 Oxidizing
	5.2	H5.2 Organic peroxides
<b>MEANS OF TRANSPORT (Block 8)</b>	6.1	H6.1 Poisonous (acute)
R = Road	6.2	H6.2 Infectious substances
T = Train/Rail	8	H8 Corrosives
S = Sea	9	H10 Liberation of toxic gases in contact with air or water
A = Air	9	H11 Toxic (delayed or chronic)
W = Inland Waterways	9	H12 Ecotoxic
<b>PHYSICAL CHARACTERISTICS (Block 13)</b>	9	H13 Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above
1. Powdery/powder		
2. Solid		
3. Viscous/paste		
4. Sludgy		
5. Liquid		
6. Gaseous		
7. Other (specify)		

Further information, in particular related to waste identification (block 14), i.e. on Basel Annexes VIII and IX codes, OECD codes and Y codes, can be found in a Guidance/Instruction Manual available from OECD and the Secretariat of the Basel Convention

**ANNEX IB**

**Movement document for transboundary movements/shipments of waste**

1. Corresponding to Notification N°:		2. Serial/total number of shipments: /	
		2a. Container identification number, if applicable	
3. Exporter - Notifier Registration N°: Name: Address:  Contact person:  Tel: Fax: Email:		4. Importer - Consignee Registration N°: Name: Address:  Contact person:  Tel: Fax: Email:	
5. Actual quantity: Tonnes (Mg): m³:		6 Actual date of shipment:	
7. Packaging Type(s) (1): Number of packages: Special handling requirements: (2) Yes: <input type="checkbox"/> No: <input type="checkbox"/>			
8.(a) 1st Carrier (3): Registration N°: Name: Address: Tel: Fax: Email:		8.(b) 2nd Carrier: Registration N°: Name: Address: Tel: Fax: Email:	
		8.(c) Last Carrier: Registration N°: Name: Address: Tel: Fax: Email:	
----- To be completed by carrier's representative -----			
Means of transport (1): Date of transfer: Signature:		Means of transport (1): Date of transfer: Signature:	
		<i>More than 2 carriers (2)</i> <input type="checkbox"/>	
9. Waste generator(s) – producer(s) (4;5;6): Registration N°: Name: Address: Contact person: Tel: Fax: Email: Site of generation (2):		12. Designation and composition of the waste (2):	
		13. Physical characteristics (1):	
10. Disposal facility <input type="checkbox"/> or Recovery facility <input type="checkbox"/>		14. Waste identification (fill in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EU list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (1): (ix) UN clas (1): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
11. Disposal/recovery operation(s) D code / R code (1):			
15. Exporter's - Notifier's / Generator's – producer's (4) declaration: I certify that the above information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantee is in force covering the transboundary movement and that all necessary consents have been received from the competent authorities of the countries concerned. Name: Signature: Date:			
16. For use by any person involved in the transboundary movement in case additional information is required			
17. Shipment received by importer – consignee (if not facility): Name: Signature: Date:			
<b>TO BE COMPLETED BY DISPOSAL / RECOVERY FACILITY</b>			
18. Shipment received at disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/>		19. I certify that the disposal/recovery of the waste described above has been completed.	
Date of reception: Accepted: <input type="checkbox"/> Rejected*: <input type="checkbox"/>		Quantity prepared for re-use or recycled:	
Quantity received: kg: litre:			



Approximate date of disposal/recovery:	<i>*immediately contact competent authorities</i>	Quantity recovered in other manner:
Disposal/Recovery operation (1):		Date:
Date:		Name:
Name:		Signature and stamp:
Signature:		

**Commented [Swe39]:** See comment on Annex 1 C point 50.

- |  |   |
|--|---|
| (1) See list of abbreviations and codes on the next page                         | (4) Required by the Basel Convention    |
| (2) Attach details if necessary  | (5) Attach list if more than one        |
| (3) If more than 3 carriers, attach information as required in blocks 8 (a,b,c). | (6) If required by national legislation |

FOR USE BY CUSTOMS OFFICES (if required by national legislation)			
<b>20. COUNTRY OF EXPORT - DISPATCH OR CUSTOMS OFFICE OF EXIT</b> The waste described in this movement document has left the Country on: Signature: Stamp:		<b>21. COUNTRY OF IMPORT - DESTINATION OR CUSTOMS OFFICE OF ENTRY</b> The waste described in this movement document has entered The country on: Signature: Stamp:	
22. STAMPS OF CUSTOMS OFFICES OF TRANSIT COUNTRIES			
Name of country: Entry:		Name of country: Entry:	
Exit:		Exit:	
Name of country: Entry:		Name of country: Entry:	
Exit:		Exit:	

#### List of Abbreviations and Codes Used in the Movement Document

DISPOSAL OPERATIONS (Block 11)	RECOVERY OPERATIONS (Block 11)
D1 Deposit into or onto land, (e.g., landfill, etc.)	R1 Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) – Use principally as a fuel or other means to generate energy (EU)
D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)	R2 Solvent reclamation/regeneration
D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)	R3 Recycling/reclamation of organic substances which are not used as solvents
D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)	R4 Recycling/reclamation of metals and metal compounds
D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment)	R5 Recycling/reclamation of other inorganic materials
D6 Release into a water body except seas/oceans	R6 Regeneration of acids or bases
D7 Release into seas/oceans including sea-bed insertion	R7 Recovery of components used for pollution abatement
D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list	R8 Recovery of components from catalysts
D9 Physico- chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination)	R9 Used oil re-refining or other reuses of previously used oil
D10 Incineration on land	R10 Land treatment resulting in benefit to agriculture or ecological improvement
D11 Incineration at sea	R11 Uses of residual materials obtained from any of the operations numbered R1-R10
D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.)	R12 Exchange of wastes for submission to any of the operations numbered R1-R11
D13 Blending or mixing prior to submission to any of the operations in this list	R13 Accumulation of material intended for any operation in this list
D14 Repackaging prior to submission to any of the operations in this list	
D15 Storage pending any of the operations in this list	
PACKAGING TYPES (Block 7)	H CODE AND UN CLASS (Block 14)
1. Drum	UN class H code Characteristics
2. Wooden barrel	1 H1 Explosive
3. Jerrican	3 H3 Flammable liquids
4. Box	4.1 H4.1 Flammable solids
5. Bag	4.2 H4.2 Substances or wastes liable to spontaneous combustion
6. Composite packaging	4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases
7. Pressure receptacle	
8. Bulk	5.1 H5.1 Oxidizing
9. Other (specify)	5.2 H5.2 Organic peroxides
MEANS OF TRANSPORT (Block 8)	6.1 H6.1 Poisonous (acute)
R = Road T = Train/Rail	6.2 H6.2 Infectious substances
S = Sea A = Air	8 H8 Corrosives
W = Inland Waterways	9 H10 Liberation of toxic gases in contact with air or water

PHYSICAL CHARACTERISTICS (Block 13)			9	H11	Toxic (delayed or chronic)
1. Powdery / powder			9	H12	Ecotoxic
2. Solid	5. Liquid		9	H13	Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above
3. Viscous / paste	6. Gaseous				
4. Sludgy (Specify)	7. Other				

Obtenu par CONTEXTE

## ANNEX IC

### SPECIFIC INSTRUCTIONS FOR COMPLETING THE NOTIFICATION AND MOVEMENT DOCUMENTS

#### I. Introduction

1. The present instructions provide the necessary explanations for completing the notification and movement documents. Both documents are compatible with the Basel Convention<sup>1</sup>, the OECD Decision<sup>2</sup> (which only covers shipments of wastes destined for recovery operations within the OECD area) and this Regulation, since they take into account the specific requirements set out in these three instruments.

From [*OP: Please insert the date two years after the date of entry into force of the Regulation*], documents and information must be submitted via electronic means in accordance with Article 26, as required in the relevant provisions in the Regulation. In the cases of shipments involving third countries (as per Titles IV, V and VI), for which paper documents can be used, these instructions remain valid. In the other cases, they should be considered taking into account of the features of the electronic exchange of information and documentation.

Because the documents have been made broad enough to cover all three instruments, however, not all blocks in the document will be applicable to all of the instruments and it therefore may not be necessary to complete all of the blocks in a given case. Any specific requirements relating to only one control system have been indicated with the use of footnotes. It is also possible that national implementing legislation may use terminology that differs from that adopted in the Basel Convention and the OECD Decision. For example, the term 'shipment' is used in this Regulation instead of 'movement' and the titles of the notification and movement documents therefore reflect this variation by employing the term 'movement/shipment'.

2. The documents include both the term 'disposal' and 'recovery', because the terms are defined differently in the three instruments. The European Union Regulation and the OECD Decision use the term 'disposal' to refer to disposal operations listed in Annex IV.A of the Basel Convention and Appendix 5.A of the OECD Decision and 'recovery' for recovery operations listed in Annex IV.B of the Basel Convention and Appendix 5.B of the OECD Decision. In the Basel Convention itself, however, the term 'disposal' is used to refer to both disposal and recovery operations.

3. Until [*OP: Please insert the date two years after the date of entry into force of the Regulation*] the competent authorities of dispatch are responsible for providing and issuing the notification and movement documents (in both paper and electronic versions). From [*OP: Please insert the date two years after the date of entry into force of the Regulation*], the notification shall be submitted and the required information and documentation exchanged via electronic means in accordance with Article 26.

The competent authorities will use a numbering system, which allows a particular consignment of waste to be traced. The numbering system should be prefixed with the country code of the country of dispatch that can be found in the ISO standard 3166 abbreviation list. Within the EU, the two-digits country code must be followed by a space. This may be followed by an optional code of up to four digits specified by the competent authority of dispatch followed by a space. The numbering system must end with a six-digit number. For illustration, if the country code is XY and the six-digit number 123456, the notification number would be XY 123456 if no optional code were specified. Where an optional code, for example 12,

**Commented [Swe40]:** Many adjustments must be made after finalizing the text in the Regulation.

For example;

- the instructions for completing block 19 of Annex IA ("Acknowledgement from the relevant competent authority ...") in Annex IC (para. 29) should be adjusted taking into account the outcome on Art. 8 and 26.
- the instructions for completing blocks 20-22 of Annex IB relating to customs offices (which have been included in Annex IB because of requirements in the current WSR) in Annex IC (para. 51) should be adjusted taking into account Art. 26 and the outcome on Titles IV, V and VI.

<sup>1</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 22 March 1989. See [www.basel.int](http://www.basel.int)

<sup>2</sup> Decision C(2001)107/FINAL of the OECD Council, concerning the revision of Decision C(92)39/FINAL on the control of transboundary movements of waste destined for recovery operations; the former Decision is a consolidation of texts adopted by the Council on 14 June 2001 and on 28 February 2002 (with amendments). See <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0266>

is specified, the notification number would be XY 12 123456. However, in case a notification or movement document is transmitted electronically and no optional code is specified, '0000' should be inserted instead of the optional code (e.g. XY 0000 123456); in case an optional code of less than four digits is specified, for example 12, the notification number would be XY 0012 123456.

4. Countries may wish to issue the documents in a paper size format that conforms to their national standards (normally ISO A4, as recommended by the United Nations). In order to facilitate their use internationally, however, and to take into account the difference between ISO A4 and the paper size used in North America, the frame size of the forms should not be greater than 183 × 262 mm with margins aligned at the top and the left side of the paper. The notification document (block 1-block 21 including footnotes) should be on one page and the list of abbreviations and codes used in the notification document should be on a second page. With regard to the movement document, block 1-block 19 including footnotes should be on one page and block 20-22 and the list of abbreviations and codes used in the movement document should be on a second page.

## II. Purpose of the notification and movement documents

5. The notification document is intended to provide the competent authorities concerned with the information they need to assess the acceptability of proposed waste shipments. It also provides space for them to acknowledge receipt of the notification and, where required, to consent in writing to a proposed shipment.

6. The movement document is intended to travel with a consignment of waste at all times from the moment it leaves the waste producer to its arrival at a disposal or recovery facility in another country. Each person who takes charge of a shipment (carriers and possibly consignee<sup>1</sup>) is to sign the movement document either upon delivery or receipt of the wastes in question. There are also spaces in the movement document for recording passage of the consignment through the customs offices of all countries concerned (required by this Regulation). Finally, the document is to be used by the relevant disposal or recovery facility to certify that the waste has been received and that the recovery or disposal operation has been completed.

## III. General requirements

7. A planned shipment subject to the procedure of prior written notification and consent may take place only after the notification and movement documents have been completed pursuant to this Regulation, taking into account Articles 16(1) and (2), and during the period of validity of the written or tacit consents of all competent authorities concerned.

8. Until [*OP: Please insert the date two years after the date of entry into force of the Regulation*], those filling out printed copies of the documents should use typescript or block capitals in permanent ink throughout. Until that same date, signatures should always be written in permanent ink and the name of the authorised representative should accompany the signature in capital letters. In the event of a minor mistake, for example the use of the wrong code for a waste, a correction can be made with the approval of the competent authorities. The new text must be marked and signed or stamped, and the date of the modification must be noted. For major changes or corrections, a new form must be completed.

From [date when Article 26 becomes applicable], the notification shall be submitted and the required information and documentation exchanged via electronic means in accordance with Article 26.

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<sup>1</sup> Outside the European Union, the term 'importer' may be used instead of 'consignee'.



9. To simplify translation, the documents require a code, rather than text, for the completion of several blocks. Where text is required, however, it must be in a language acceptable to the competent authorities in the country of destination and, where required, to the other concerned authorities.

10. A six-digit format should be used to indicate the date. For example, 29 January 2024 should be shown as 29.01.24 (Day.Month.Year).

11. Where it is necessary to add annexes to the documents providing additional information, each annex should include the reference number of the relevant document and cite the block to which it relates.

#### IV. Specific instructions for completing the notification document

12. The notifier<sup>1</sup> is to complete blocks 1–18 (except the notification number in block 3) at the time of notification. In some third countries which are not OECD member countries, the competent authority of dispatch may complete these blocks. When the notifier is not the same person as the original producer, this producer or one of the persons indicated in Article 3(6)(a)(ii) or (iii) is, where practicable, also to sign in block 17 as specified in the Article 5(2), and point 26 of Part 1 of Annex II.

13. **Blocks 1** (See points 2 and 4 of Part 1 of Annex II) **and 2** (point 6 of Part 1 of Annex II): Provide the required information (give registration number only where applicable, address including the name of the country and telephone and fax numbers including the country code; contact person should be responsible for the shipment including if incidents during shipment occur). In some third countries, information relating to the competent authority of dispatch may be given instead. The notifier may be a dealer or broker in accordance with Article 3(6) of this Regulation. In this case, provide a copy of the contract or evidence of the contract (or a declaration certifying its existence) between the producer, new producer or collector and the broker or dealer in an annex (see point 23 of Part 1 of Annex II). The phone and fax numbers and the e-mail address should facilitate contact of all relevant persons at any time regarding an incident during shipment.

14. Normally, the consignee would be the disposal or recovery facility given in block 10. In some cases, however, the consignee may be another person, for example a dealer, a broker<sup>2</sup>, or a corporate body, such as the headquarters or mailing address of the receiving disposal or recovery facility in block 10. In order to act as a consignee, a dealer, broker or corporate body must be under the jurisdiction of the country of destination and possess or have some other form of legal control over the waste at the moment the shipment arrives in the country of destination. In such cases, information relating to the dealer, broker or corporate body should be completed in block 2.

15. **Block 3** (See points 1, 5, 11 and 19 of Part 1 of Annex II): When issuing a notification document, a competent authority will, according to its own system, provide an identification number which will be printed in this block (see paragraph 3 above). Under A, 'individual shipment' refers to a single notification and 'multiple shipments' to a general notification. Under B, give the type of operation the waste being shipped is destined for. Under C, pre-consent refers to Article 14 of this Regulation.

16. **Blocks 4** (See point 1 of Part 1 of Annex II), **5** (See point 17 of Part 1 of Annex II) **and 6** (See point 12 of Part 1 of Annex II): Give the number of shipments in block 4 and the intended date of a single shipment or, for multiple shipments, the dates of the first and last shipments, in block 6. In block 5, give the estimated minimum and maximum weight in tonnes (1 tonne equals 1 megagram (Mg) or 1 000 kg) ~~or~~

<sup>1</sup> Outside the European Union, the term 'exporter' may be used instead of 'notifier'.

<sup>2</sup> In some third countries which are OECD member countries, the term recognised trader may be used according to the OECD Decision.

~~volume in litres of the waste~~. In some third countries, giving the volume in cubic metres (1 cubic metre equals 1 000 litres) or other metric units, such as kilograms or litres, may also be acceptable. When other metric units are used, the unit of measure may be indicated and the unit in the document may be crossed out. The total quantity shipped must not exceed the maximum quantity declared in block 5. The intended period of time for shipments in block 6 may not exceed one year, with the exception of multiple shipments to pre-consented recovery facilities according to Article 14 of this Regulation (see paragraph 15), for which the intended period of time may not exceed three years. All shipments must take place within the validity period of the written or tacit consents of all competent authorities concerned issued by the competent authorities according to Article 9(4) of this Regulation. In the case of multiple shipments, some third countries may, based on the Basel Convention, require the expected dates or the expected frequency and the estimated quantity of each shipment to be quoted in blocks 5 and 6 or attached in an annex. Where a competent authority issues a written consent to the shipment and the validity period of that consent in block 20 differs from the period indicated in block 6, the decision of the competent authority overrides the information in block 6.

**Commented [SE 41]:** This should not be possible for actors in the EU, as in the current WSR; see next sentence about actors in third countries

17. **Block 7** (See point 18 of Part 1 of Annex II): Types of packaging should be indicated using the codes provided in the list of abbreviations and codes attached to the notification document. If special handling precautions are required, such as those required by producers' handling instructions for employees, health and safety information, including information on dealing with spillage, and instructions in writing for the transport of dangerous goods, tick the appropriate box and attach the information in an annex.

18. **Block 8** (See point 7 and 13 of Part 1 of Annex II): Provide the required information (give registration number only where applicable, address including the name of the country and telephone and fax numbers including the country code; contact person should be responsible for the shipment). If more than one carrier is involved, append to the notification document a complete list giving the required information for each carrier. Where the transport is organised by a forwarding agent, the agent's details and the respective information on actual carriers should be provided in an annex. Provide evidence of registration of the carrier(s) regarding waste transports (e.g. a declaration certifying its existence) in an annex (see point 15 of Part 1 of Annex II). Means of transport should be indicated using the abbreviations provided in the list of abbreviations and codes attached to the notification document.

19. **Block 9** (See point 3 and 16 of Part 1 of Annex II): Provide the required information on the producer of the waste<sup>1</sup>. The registration number of the producer should be given where applicable. If the notifier is the producer of the waste then write 'Same as block 1'. If the waste has been produced by more than one producer, write 'See attached list' and append a list providing the requested information for each producer. Where the producer is not known, give the name of the person in possession or control of such waste (holder). Also provide information on the process by which the waste was produced and the site of production.

20. **Block 10** (See point 5 of Part 1 of Annex II): Provide the required information (give destination of the shipment by ticking either disposal or recovery facility, registration number only where applicable and actual site of disposal or recovery if it is different from the address of the facility). If the disposer or recoverer is also the consignee, state here 'Same as block 2'. If the disposal or recovery operation is a **D8, D9 or D13–D15** or R12 or R13 operation (according to Annexes I or II of Directive 2008/98/EC on waste), the facility performing the operation should be mentioned in block 10, as well as the location where the operation will be performed. In such a case, corresponding information on the subsequent facility or facilities, where any subsequent R12/R13 or **D8, D9 or D13–D15** operation and the **D1–D7, D10–D12** or R1–R11 operation or operations takes or take place or may take place should be provided in an annex. If the recovery or disposal facility is listed in Annex I, Category 5 of Directive 2010/75/EU,

<sup>1</sup> Outside the European Union, the term 'generator' may be used instead of 'producer'.

evidence (e.g. a declaration certifying its existence) of a valid permit issued in accordance with Articles 4 and 5 of that Directive must be provided in an annex in case a facility is located in the Union.

21. **Block 11** (See points 5, 19 and 20 of Part 1 of Annex II): Indicate the type of recovery or disposal operation by using R-codes or D-codes of Annexes I or II of Directive 2008/98/EC on waste (see also the list of abbreviations and codes attached to the notification document)<sup>1</sup>. If the disposal or recovery operation is a **D8, D9 or** D13–D15 or R12 or R13 operation, corresponding information on the subsequent operations (any R12/R13 or **D8, D9 or** D13–D15 as well as D1–**D7, D10**-D12 or R1–R11) should be provided in an annex. Also indicate the technology to be employed. If the waste is destined for recovery, provide the planned method of disposal for the non-recoverable fraction after recovery, the amount of recovered material in relation to non-recoverable waste, the estimated value of the recovered material and the cost of recovery and the cost of disposal of the non-recoverable fraction in an annex. In addition, in cases of imports into the Union of wastes destined for disposal, indicate a prior duly motivated request from the country of dispatch according to Article 47(4) of this Regulation under ‘reason for export’ and attach this request in an annex. Some third countries outside the OECD may, based on the Basel Convention, also require that the reason for export is specified.

22. **Block 12** (See point 16 of Part 1 of Annex II): Give the name or names by which the material is commonly known or the commercial name and the names of its major constituents (in terms of quantity and/or hazard) and their relative concentrations (expressed as a percentage), if known. In the case of a mixture of wastes, provide the same information for the different fractions and indicate which fractions are destined for recovery. A chemical analysis of the composition of the waste may be requested in accordance with point 7 of Part 3 of Annex II of this Regulation. Attach further information in an annex if necessary.

23. **Block 13** (See point 16 of Part 1 of Annex II). Indicate physical characteristics of the waste at normal temperatures and pressures.

24. **Block 14** (See point 16 of Part 1 of Annex II): State the code that identifies the waste according to Annexes III, IIIA, IIIB, IV of this Regulation. Give the code according to the system adopted under the Basel Convention (under subheading (i) in block 14) and, where applicable, the systems adopted in the OECD Decision (under subheading (ii)) and other accepted classification systems (under subheadings (iii) to (xii)). According to Article 5(8) of this Regulation, give only one waste code (from Annexes III, IIIA, IIIB, IV of this Regulation) with the following two exceptions: In the case of wastes not classified under one single entry in either Annex III, IIIB, IV, give only one type of waste. In the case of mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV, unless listed in Annex IIIA, provide the code of each fraction of the waste in order of importance (in an annex if necessary).

(a) *Subheading (i)*: Basel Convention Annex VIII codes should be used for wastes that are subject to the procedure of prior written notification and consent (see Part I of Annex IV of this Regulation); Basel Annex IX codes should be used for wastes that are not usually subject to the procedure of prior written notification and consent but which, for a specific reason such as contamination by hazardous substances (cf. first paragraph of Annex III of this Regulation) or national regulations<sup>2</sup>, are subject to the procedure of prior written notification and consent (see Part I of Annex III of this Regulation). Basel Annexes VIII and

<sup>1</sup> In the European Union, the definition of operation R1 in the list of abbreviations is different from that used in the Basel Convention and the OECD Decision; both wordings are therefore provided. There are other differences between the terminology used in the Union and that used in the Basel Convention and the OECD Decision, which are not contained in the list of abbreviations.

<sup>2</sup> Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply, OJ L 316, 4.12.2007, p. 6.

IX can be found in Annex V of this Regulation, in the text of the Basel Convention as well as in the Instruction Manual available from the Secretariat of the Basel Convention. If a waste is not listed in Annexes VIII or IX of the Basel Convention, insert 'not listed'.

(b) *Subheading (ii)*: OECD member countries should use OECD codes for wastes listed in Part II of Annexes III and IV of this Regulation, i.e. wastes that have no equivalent listing in the Annexes of the Basel Convention or that have a different level of control under this Regulation from the one required by the Basel Convention. If a waste is not listed in Part II of Annexes III and IV of this Regulation, insert 'not listed'.

(c) *Subheading (iii)*: European Union Member States should use the codes included in the European Union list of wastes (see Commission Decision 2000/532/EC as amended)<sup>1</sup>.

(d) *Subheadings (iv) and (v)*: Where applicable, national identification codes other than the EU list of wastes used in the country of dispatch and, if known, in the country of destination should be used.

(e) *Subheading (vi)*: If useful or required by the relevant competent authorities, add here any other code or additional information that would facilitate the identification of the waste.

Such codes may be included in Annexes IIIA, IIIB or IV (EU48) of this Regulation. In that case, the Annex number should be stated in front of the codes. As regards Annex IIIA, the relevant code(s) as indicated in Annex IIIA should be used, as appropriate in sequence. Certain Basel entries such as B1100 and B3020 are restricted to particular waste streams only, as indicated in Annex IIIA.

(f) *Subheading (vii)*: State the appropriate Y-code or Y-codes according to the 'Categories of wastes to be controlled' (see Annex I of the Basel Convention and Appendix 1 of the OECD Decision), or according to the 'Categories of wastes requiring special consideration' given in Annex II of the Basel Convention (see Annex IV Part I of this Regulation or Appendix 2 of the Basel Instruction Manual), if it or they exist(s). Y-codes are not required by this Regulation and the OECD Decision except where the waste shipment falls under one of the two 'Categories requiring special consideration' under the Basel Convention (Y46 and Y47 or Annex II wastes), in which case the Basel Y-code should be indicated. Nevertheless, indicate the Y-code or Y-codes for wastes defined as hazardous according to Article 1(1)(a) of the Basel Convention in order to fulfil the reporting requirements under the Basel Convention.

(g) *Subheading (viii)*: If applicable, state here the appropriate H-code or H-codes, i.e. the codes indicating the hazardous characteristics exhibited by the waste (see the list of abbreviations and codes attached to the notification document). If there is no hazardous characteristic covered by the Basel Convention, but the waste is hazardous according to Annex III to Directive 2008/98/EC of the European Parliament and of the Council, state the HP-code or HP-codes according to this Annex III and insert 'EU' after the HP code (e.g. HP14 EU).

(h) *Subheading (ix)*: If applicable, state here the United Nations class or classes which indicate the hazardous characteristics of the waste according to the United Nations classification (see the list of abbreviations and codes attached to the notification document) and are required to comply with international rules for the transport of dangerous goods (see the United Nations Recommendations on the Transport of Dangerous Goods. Model Regulations (Orange Book), latest edition)<sup>2</sup>.

(i) *Subheadings (x and xi)*: If applicable, state here the appropriate United Nations number or numbers and United Nations shipping name or names. These are used to identify the waste according to the United Nations classification system and are required to comply with international rules for transport of dangerous

<sup>1</sup> See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02000D0532-20150601&qid=1632818732876>

<sup>2</sup> See <https://unece.org/transport/dangerous-goods>

goods (see the United Nations Recommendations on the Transport of Dangerous Goods. Model Regulations (Orange Book), latest edition).

(j) *Subheading (xii)*: If applicable, state here customs code or codes, which allow identification of the waste by customs offices (see the list of codes and commodities in the 'Harmonised commodity description and coding system' produced by the World Customs Organisation).

25. **Block 15** (See points 8-10, 14 of Part 1 of Annex II): On line (a) of block 15, provide the name of the countries<sup>1</sup> of dispatch, transit and destination or the codes for each country by using the ISO standard 3166 abbreviations<sup>2</sup>. On line (b), provide, where applicable, the code number of the respective competent authority for each country and on line (c) insert the name of the border crossing or port and, where applicable, the customs office code number as the point of entry to or exit from a particular country. For transit countries give the information in line (c) for points of entry and exit. If more than three transit countries are involved in a particular shipment, attach the appropriate information in an annex. Provide the intended route between points of exit and entry, including possible alternatives, also in cases of unforeseen circumstances, in an annex.

26. **Block 16** (See point 14 of Part 1 of Annex II): Provide the required information in case shipments enter, pass through or leave the European Union.

27. **Block 17** (See points 21-22 and 24-26 of Part 1 of Annex II): Each copy of the notification document is to be signed and dated by the notifier (or by dealer or broker if acting as a notifier) before being forwarded to the competent authorities of the countries concerned. In some third countries, the competent authority of dispatch may sign and date. When the notifier is not the same person as the original producer, this producer, the new producer or the collector is, where practicable, also to sign and date; it is noted that this may not be practicable in cases where there are several producers (definitions regarding practicability may be contained in national legislation). Further, where the producer is not known, the person in possession or control of the waste (holder) should sign. This declaration should also certify the existence of insurance against liability for damage to third parties. Some third countries may require proof of insurance or other financial guarantees and a contract to accompany the notification document.

From [date when Article 26 becomes applicable], the notification shall be submitted and the required information and documentation exchanged via electronic means in accordance with Article 26.

28. **Block 18**: Indicate the number of annexes containing any additional information supplied with the notification document<sup>3</sup>. Each annex must include a reference to the notification number to which it relates, which is indicated in the corner of block 3.

29. **Block 19**: Under the Basel Convention, the competent authority or authorities of the country or countries of destination (where applicable) and transit issue such an acknowledgement. Under the OECD Decision, the competent authority of the country of destination issues the acknowledgement. Some third countries may, according to their national legislation, require that the competent authority of dispatch also issues an acknowledgement.

30. **Blocks 20 and 21**: Block 20 is for use by competent authorities of any country concerned when providing a written consent. The Basel Convention (except if a country has decided not to require written consent with regard to transit and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention) and certain countries always require a written consent (according Article 9(1) of this Regulation, competent authorities of dispatch and transit may provide a tacit consent) whereas the OECD

<sup>1</sup> In the Basel Convention, the term 'State' is used instead of 'country'.

<sup>2</sup> Outside the European Union, the terms 'export' and 'import' may be used instead of 'dispatch' and 'destination'.

<sup>3</sup> See blocks 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 20 or 21 and, if additional information and documentation is requested by the competent authorities, see points in Annex II Part 3 of this Regulation which are not covered by any block.

Decision does not require a written consent. Indicate the name of the country (or its code by using the ISO standard 3166 abbreviations). If the shipment is subject to specific conditions, the competent authority in question should tick the appropriate box and specify the conditions in block 21 or in an annex to the notification document. If a competent authority wishes to object to the shipment it should do so by writing 'OBJECTION' in block 20. Block 21, or a separate letter, may then be used to explain the reasons for the objection.

#### V. Specific instructions for completing the movement document

31. At the time of notification, the notifier is to complete blocks 3, 4 and 9–14. After receipt of the consents from the competent authorities of dispatch, destination and transit or, in relation to the competent authority of transit, tacit consent can be assumed, and before the actual start of the shipment, the notifier is to complete blocks 2, 5–8 (except the means of transport, the date of transfer and the signature), 15 and, if appropriate, 16. In some third countries which are not OECD member countries, the competent authority of dispatch may complete these blocks instead of the notifier. At the time of taking possession of the consignment, the carrier or its representative is to complete the means of transport, the date of transfer and the signature, which appear in blocks 8(a) to 8(c) and, if appropriate, 16. The consignee is to complete block 17 in the event that it is not the disposer or recoverer and when it takes charge of a shipment of waste after it arrives in the country of destination and, if appropriate, 16.

32. **Block 1:** The competent authority of dispatch is to enter the notification number (this is to be copied from block 3 in the notification document).

33. **Block 2a:** Provide the identification number of the container that carries the concerned waste during transport, if applicable.

34. **Block 2** (See point 1 of Part 2 of Annex II): For a general notification for multiple shipments, enter the serial number of the shipment and the total intended number of shipments indicated in block 4 in the notification document (for example, enter '4/11' for the fourth shipment out of eleven intended shipments under the general notification in question). In the case of a single notification, enter '1/1'.

35. **Blocks 3 and 4:** Reproduce the same information on the notifier<sup>1</sup> and consignee as given in blocks 1 and 2 in the notification document.

36. **Block 5** (See point 6 of Part 2 of Annex II): Give the actual weight in tonnes (1 tonne equals 1 megagram (Mg) or 1 000 kg of the waste. In some third countries, giving the volume in cubic metres (1 cubic metre equals 1 000 litres) or other metric units, such as kilograms or litres, may be acceptable. When other metric units are used, the unit of measure may be indicated and the unit in the form may be crossed out. Attach, wherever possible, copies of weighbridge tickets.

37. **Block 6** (See point 2 of Part 2 of Annex II): Enter the date when the shipment actually starts (see also instructions on block 6 of the notification document).

38. **Block 7** (See points 7 and 8 of Part 2 of Annex II): Types of packaging should be indicated using the codes provided in the list of abbreviations and codes attached to the movement document. If special handling precautions are required, such as those prescribed by producers' handling instructions for employees, health and safety information, including information on dealing with spillage, and transport emergency cards, tick the appropriate box and attach the information in an annex. Also enter the number of packages making up the consignment.

39. **Blocks 8 (a), (b) and (c)** (See points 3 and 4 of Part 2 of Annex II): Provide the required information (give registration number only where applicable, address including the name of the country and telephone and fax numbers including the country code). When more than three carriers are involved, appropriate

<sup>1</sup> In some third countries, information relating to the competent authority of dispatch may be given instead.

information on each carrier should be attached to the movement document. The means of transport, the date of transfer and a signature should be provided by the carrier or carrier's representative taking possession of the consignment. A copy of the signed movement document is to be retained by the notifier. Upon each successive transfer of the consignment, the new carrier or carrier's representative taking possession of the consignment will have to comply with the same request and also sign the document. A copy of the signed document is to be retained by the previous carrier.

From [date when Article 26 becomes applicable], the notification shall be submitted and the required information and documentation exchanged via electronic means in accordance with Article 26.

40. **Block 9:** Reproduce the information given in block 9 of the notification document.

41. **Blocks 10 and 11:** Reproduce the information given in blocks 10 and 11 in the notification document. If the disposer or recoverer is also the consignee, write in block 10: 'Same as block 4'. If the disposal or recovery operation is a **D8, D9 or** D13–D15 or R12 or R13 operation (according to Annexes I or II of Directive 2008/98/EC on waste), the information on the facility performing the operation provided in block 10 is sufficient. No further information on any subsequent facilities performing R12/R13 or **D8, D9 or** D13–D15 operations and the subsequent facility(ies) performing the **D1–D7, D10–D12** or R1–R11 operation(s) needs to be included in the movement document.

42. **Blocks 12, 13 and 14:** Reproduce the information given in blocks 12, 13 and 14 in the notification document.

43. **Block 15** (See point 9 of Part 2 of Annex II): At the time of shipment, the notifier (or the dealer or broker if acting as a notifier) shall sign and date the movement document. In some third countries, the competent authority of dispatch, or the generator of the waste according to the Basel Convention, may sign and date the movement document. According to Article 16(1) of this Regulation, ensure that the information in the movement document is made electronically available, including during the time of transport, to the relevant authorities.

44. **Block 16** (See point 5 of Part 2 of Annex II): This block can be used by any person involved in a shipment (notifier or the competent authority of dispatch, as appropriate, consignee, any competent authority, carrier) in specific cases where more detailed information is required by national legislation concerning a particular item (for example, information on the port where a transfer to another transport mode occurs, the number of containers and their identification number, or additional proof or stamps indicating that the shipment has been consented by the competent authorities). Give the routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Union) and route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances either in block 16 or attach it in an annex.

45. **Block 17:** This block is to be completed by the consignee in the event that it is not the disposer or recoverer (cf. paragraph 14 above) and in case the consignee takes charge of the waste after the shipment arrives in the country of destination.

46. **Block 18:** This block is to be completed by the authorised representative of the disposal or recovery facility upon receipt of the waste consignment. Tick the box of the appropriate type of facility. With regard to the quantity received, please refer to the specific instructions on block 5 (paragraph 36). A signed copy of the movement document is given to the last carrier. If the shipment is rejected for any reason, the representative of the disposal or recovery facility must immediately contact his or her competent authority. According to Article 16(3) or, if appropriate, 15(3) of this Regulation and the OECD Decision, confirmation to the notifier and the relevant authorities that the waste has been received must be provided within ~~one~~ **three** days (with the exception of those OECD transit countries which have informed the OECD Secretariat that they do not wish to receive such copies of the movement document). The original movement document shall be retained by the disposal or recovery facility.

From [date when Article 26 becomes applicable], the notification shall be submitted and the required information and documentation exchanged via electronic means in accordance with Article 26.

47. Receipt of the waste consignment must be certified by any facility performing any disposal or recovery operation, including any **D8, D9 or** D13–D15 or R12 or R13 operation. A facility performing any **D8, D9 or** D13–D15 or R12/R13 operation or a D1–**D7, D10**–D12 or R1–R11 operation subsequent to a **D8, D9 or** D13–D15 or R12 or R13 operation in the same country, is not, however, required to certify receipt of the consignment from the **D8, D9 or** D13–D15 or R12 or R13 facility. Thus, block 18 does not need to be used for the final receipt of the consignment in such a case. Indicate also the type of disposal or recovery operation by using R-codes or D codes of Annexes I or II of Directive 2008/98/EC on waste and the approximate date by which the disposal or recovery of waste will be completed.

48. **Block 19:** This block is to be completed by the disposer or recoverer to certify the completion of the disposal or recovery of the waste. According to Article 16(4) or, if appropriate, 15(4) of this Regulation and the OECD Decision, signed copies of the movement document with block 19 completed should be sent to the notifier and competent authorities of dispatch, transit (not required by the OECD Decision) and destination as soon as possible, but no later than 30 days after the completion of the recovery or disposal and no later than one calendar year following the receipt of the waste. Some third countries which are not OECD member countries may require in accordance with the Basel Convention that signed copies of the document with block 19 completed must be sent to the notifier and the competent authority of dispatch. For disposal or recovery operations **D8, D9 or** D13–D15 or R12 or R13, the information on the facility performing such an operation provided in block 10 is sufficient, and no further information on any subsequent facilities performing R12/R13 or **D8, D9 or** D13–D15 operations and the subsequent facility(ies) performing the D1–**D7, D10**–D12 or R1–R11 operation(s) need be included in the movement document.

49. The disposal or recovery of waste must be certified by any facility performing any disposal or recovery operation, including a **D8, D9 or** D13–D15 or R12 or R13 operation. Therefore, a facility performing any **D8, D9 or** D13–D15 or R12/R13 operation or a D1–**D7, D10**–D12 or R1–R11 operation, subsequent to a **D8, D9 or** D13–D15 or R12 or R13 operation in the same country, should not use block 19 to certify the recovery or disposal of the waste, since this block will already have been completed by the **D8, D9 or** D13–D15 or R12 or R13 facility. The means of certifying disposal or recovery in this particular case must be ascertained by each country.

50. In case of waste shipped for preparation for re-use or recycling, the actual quantity of the waste that was recycled or prepared for re-use by the receiving facility must be provided in block 19. If the waste was shipped for other recovery operations, including energy recovery, the amount recovered must be provided in block 19. The applicable Union rules on the calculation, verification and reporting of data must be taken into account when completing this block<sup>1</sup>.

51. **Blocks 20, 21 and 22:** The blocks must be used for control by customs offices at the borders of the Union.

**Commented [Swe42]:** PRES considers these additions far reaching and are hesitant for adding since we see a problem with the practical implementation.

<sup>1</sup> Commission implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384; OJ L163, 20.6.2019, p.66



## ANNEX II

### INFORMATION AND DOCUMENTATION RELATED TO NOTIFICATION

#### Part 1: Information to be supplied when submitting the notification document:

1. Serial number or other accepted identifier of the notification document and intended total number of shipments.

In case the notifier has previously obtained consent(s) for the shipment of the same types of waste to the same facility, the serial number or other accepted identifier of notification document of these previously consented shipments may ~~also be indicated~~ **referred to**.

2. Notifier's name, address, telephone number, e-mail address, registration number and contact person.
3. If the notifier is not the producer: producer's (producers') name, address, telephone number, e-mail address and contact person.
4. Dealer's (dealers') or broker's (brokers') name, address, telephone number, e-mail address and contact person, where the notifier has authorised him in accordance with Article 3(6).

**4bis. Address of the location from which the shipment will be started, name of the person that is responsible for this location and, if different from the persons referred to in points 2 to 4, address, telephone number, e-mail address and contact person of the person that is responsible for this location.**

5. Recovery or disposal facility's name, address, telephone number, ~~fax number~~, e-mail address, registration number, contact person, technologies employed and possible status as pre-consented in accordance with Article 14.

If the waste is destined for an interim recovery or disposal operation, ~~similar~~ **corresponding** information regarding all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged shall be indicated.

If the recovery or disposal facility is listed in Annex I, Category 5 of Directive 2010/75/EU, evidence (e.g. a declaration certifying its existence) of a valid permit issued in accordance with Articles 4 and 5 of that Directive shall be provided.

6. Consignee's name, address, telephone number, e-mail address, registration number and contact person.

Commented [SE 43]: Could be deleted

7. Intended carrier's (carriers') and/or their agent's (agents') name, address, telephone number, e-mail address, registration number and contact person.
8. Country of dispatch and relevant competent authority.
9. Countries of transit and relevant competent authorities.
10. Country of destination and relevant competent authority.
11. Single notification or general notification. If general notification, period of validity requested.
12. Date(s) envisaged for start of the shipment(s).
13. Means of transport envisaged.
14. Intended routing ~~(point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Union) and intended route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.~~
15. Evidence of registration of the carrier(s) regarding waste transports (e.g. a declaration certifying its existence).
16. Designation of the waste on the appropriate list, the source(s), description, composition and any hazardous characteristics. In the case of waste from various sources, also a detailed inventory of the waste.
17. Estimated maximum and minimum quantities.
18. Type of packaging envisaged.
19. Specification of the recovery or disposal operation(s) as referred to in Annexes I and II to Directive 2008/98/EC.
20. If the waste is destined for recovery:
  - (a) the planned method of disposal for the non-recoverable fraction after recovery;
  - (b) the amount of recovered material in relation to non-recoverable waste;
  - (c) the estimated value of the recovered material;
  - (d) the cost of recovery and the cost of disposal of the non-recoverable fraction.

**Commented [SE 44]:** deleted since this is already defined in Art 3

**20bis. If the waste is destined for disposal, evidence demonstrating that the conditions in Article 11(1)(a) are fulfilled.**

21. Evidence of insurance against liability for damage to third parties (e.g. a declaration certifying its existence).
22. **A copy of the contract and evidence of a contract** (or a declaration certifying its existence) between the notifier and consignee for the recovery or disposal of the waste, **between the consignee and facility where the waste is recovered or disposed of in the event that the consignee is not the facility**, that has been concluded and is effective at the time of the notification, as required in **Article 5(6) and Article 6**.
23. A copy of the contract ~~or evidence of the contract~~ (or **and** a declaration certifying its existence) between the producer, new producer or collector and the broker or dealer, in the event that the broker or dealer acts as notifier.
24. Evidence of a financial guarantee or equivalent insurance (or a declaration certifying its existence if the competent authority so allows) that has been established and is 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 **at the time of completion of the movement document according to Article 16(2)** when the shipment starts, as required in Article 5(~~6~~7) and Article 7.
- 24bis. **Certification-Documentation certifying that they the notifier has** ~~have~~ not been convicted of illegal shipment or any other illegal act in relation to environmental protection, and ~~has~~ not repeatedly failed to comply with Articles 15 and 16 in connection with past shipments, in a period of 5 years prior to the notification request.
25. Certification by the notifier that the information is complete and correct to the best of his/her knowledge.
26. ~~When the notifier is not the producer in accordance with Article 3(6)(a)(i), the notifier shall ensure that the producer or one of the persons indicated in Article 3(6)(a)(ii) or (iii), where practicable, also signs the notification document provided for in Annex IA.~~

**Commented [SE 45]:** This is already covered by Art 5(2).

**Part 2: Information to be supplied on, or annexed to, the movement document:**

Supply all information listed in Part 1, updated in accordance with the points set out below, and the other additional information specified:

1. Serial and total number of shipments.
2. Date shipment started.

EN

EN

3. Means of transport.
4. Carrier's (carriers') name, address, telephone number, ~~fax number~~ and e-mail address.
5. ~~Routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Union) and route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.~~
6. Quantities.
7. Type of packaging **and, if applicable, container identification number.**
8. Any special precautions to be taken by the carrier(s).
9. Declaration **signed** by the notifier that all necessary consents have been received from the competent authorities of the countries concerned. ~~This declaration must be signed by the notifier.~~
10. Appropriate signatures for each custody transfer.

**Commented [SE 46]:** Could be deleted

**Commented [SE 47]:** Deleted since this is already defined in Art 3

**Part 3: Additional information and documentation that may be requested by the competent authorities:**

1. The type and duration of the authorisation pursuant to which the recovery or disposal facility operates.
2. Copy of the permit issued in accordance with Articles 4 and 5 of Directive 2010/75/EU.
3. Information concerning the measures to be taken to ensure transport safety.
4. The transport distance(s) between the notifier and the facility, including ~~possible~~ alternative routes, ~~also in case of unforeseen circumstances~~ and, in the event of intermodal transport, the place where the transfer will take place.
5. Information about costs of transport between the notifier and the facility.
6. Copy or evidence of the registration of the carrier(s) regarding the waste transport.
7. Chemical analysis of the composition of the waste.
8. Description of the production process of the waste.
9. Description of the treatment process of the facility, which receives the waste.
10. The financial guarantee or equivalent insurance or a copy or evidence thereof.

11. Information concerning the calculation of the financial guarantee or equivalent insurance as required in Article 5(6) and in Article 7.
12. Copy of the contracts referred to in Part 1, points 22 and 23.
13. Copy of the policy of insurance against liability for damage to third parties.
14. Any other information, which is pertinent to the assessment of the notification in accordance with this Regulation and national legislation.

### ANNEX III

#### **LIST OF WASTES SUBJECT TO THE GENERAL INFORMATION REQUIREMENTS LAID DOWN IN ARTICLE 18 ('GREEN' LISTED WASTE)**

1. Regardless of whether or not wastes are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which

- (a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account **the provisions list of waste referred to in of Article 7 of Directive 2008/98/EC as well as the hazardous properties characteristics** listed in Annex III to ~~that Directive 2008/98/EC~~; or
- (b) prevents the recovery of the wastes in an environmentally sound manner.

#### **Part I:**

Wastes listed in Annex IX of the Basel Convention<sup>1</sup>.

For the purposes of this Regulation:

(a) Any reference to list A in Annex VIII of the Basel Convention shall be understood as a reference to Annex IV of this Regulation;

In Basel entry B1020 the term "bulk finished form" includes all metallic non-dispersible<sup>2</sup> forms of the scrap listed therein;

Basel entry B1030 shall read: 'Residues containing refractory metals';

The part of Basel entry B1100 that refers to "Slags from copper processing" etc. does not apply and (OECD) entry GB040 in Part II applies instead;

Basel entry B1110 does not apply and (OECD) entries GC010 and GC020 in Part II apply instead.

Basel entry B2050 does not apply and (OECD) entry GG040 in Part II applies instead.

<sup>1</sup> Annex IX to the Basel Convention is listed in this Regulation in Annex V, Part 1, List B.

<sup>2</sup> "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

For ~~waste shipped~~ **shipments** within the Union, Basel entry B3011 does not apply and the following entry applies instead:

EU3011 Plastic waste (note the related entry AC300 in part II of Annex IV, and the related entry EU48 in part I of Annex IV):

Plastic waste listed below, provided it is almost free from contamination and other types of wastes<sup>1</sup> and destined for recycling:

— Plastic waste almost exclusively<sup>2</sup> consisting of one non-halogenated polymer, including but not limited to the following polymers:

- Polyethylene (PE)
- Polypropylene (PP)
- Polystyrene (PS)
- Acrylonitrile butadiene styrene (ABS)
- Polyethylene terephthalate (PET)
- Polycarbonates (PC)
- Polyethers

— Plastic waste almost exclusively<sup>3</sup> consisting of one cured resin or condensation product, including but not limited to the following resins:

- Urea formaldehyde resins
- Phenol formaldehyde resins
- Melamine formaldehyde resins
- Epoxy resins
- Alkyd resins

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<sup>1</sup> In relation to 'almost free from contamination and other types of wastes', international and national specifications may offer a point of reference.

<sup>2</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

<sup>3</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

— Plastic waste almost exclusively<sup>1</sup> consisting of one of the following fluorinated polymers<sup>1</sup>:

- Perfluoroethylene/propylene (FEP)
  - Perfluoroalkoxy alkanes:
  - Tetrafluoroethylene/perfluoroalkyl vinyl ether (PFA)
  - Tetrafluoroethylene/perfluoromethyl vinyl ether (MFA)
  - Polyvinylfluoride (PVF)
  - Polyvinylidene fluoride (PVDF)
  - Polytetrafluoroethylene (PTFE)
- Polyvinyl chloride (PVC).

#### Part II:

*Metal bearing wastes arising from melting, smelting and refining of metals*

<b>GB040</b>	7112 262030 262091	Slags from precious metals and copper processing for further refining
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*Other wastes containing metals*

<b>GC010</b>		Electrical assemblies consisting only of metals or alloys
<b>GC020</b>		Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery
<b>GC030</b>	ex 890800	Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste <sup>2</sup>

<sup>1</sup> Post consumer wastes are excluded

<sup>2</sup> The term "properly emptied" is understood as presuming full compliance with internationally recognised rules and guidelines on ship recycling.



**GC050** Spent Fluid Catalytic Cracking (FCC) Catalysts (e.g.: aluminium oxide, zeolites)

*Glass waste in non-dispersible form*

**GE020** ex 7001 Glass Fibre Waste  
ex 701939

*Ceramic wastes in non-dispersible form*

**GF010** Ceramic wastes which have been fired after shaping, including ceramic vessels (before and/or after use)

*Other wastes containing principally inorganic constituents, which may contain metals and organic materials*

**GG030** ex 2621 Bottom ash and slag tap from coal fired power plants

**GG040** ex 2621 Coal fired power plants fly ash

*Wastes arising from tanning and fellmongery operations and leather use*

**GN010** ex 050200 Waste of pigs', hogs' or boars' bristles and hair or of badger hair and other brush making hair

**GN020** ex 050300~~1499~~ Horsehair waste, whether or not put up as a layer with or without supporting material

**GN030** ex 050590 Waste of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation

### ANNEX IIIA

#### **MIXTURES OF TWO OR MORE WASTES LISTED IN ANNEX III AND NOT CLASSIFIED UNDER ONE SINGLE ENTRY AS REFERRED TO IN ARTICLE 4(2)**

1. Regardless of whether or not mixtures are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which:

increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account ~~the provisions of list of waste referred to in Article 7 of Directive 2008/98/EC as well as the hazardous properties characteristics listed in Annex III to that Directive 2008/98/EC;~~ or

prevents the recovery of the wastes in an environmentally sound manner.

The following mixtures of wastes are included in this Annex:

- (a) mixtures of wastes classified under Basel entries B1010 and B1050;  
mixtures of wastes classified under Basel entries B1010 and B1070;  
mixtures of wastes classified under Basel entries B3040 and B3080;  
mixtures of wastes classified under (OECD) entry GB040 and under Basel entry B1100 restricted to hard zinc spelter, zinc-containing drosses, aluminium skimmings (or skins) excluding salt slag and wastes of refractory linings, including crucibles, originating from copper smelting;  
mixtures of wastes classified under (OECD) entry GB040, under Basel entry B1070 and under Basel entry B1100 restricted to wastes of refractory linings, including crucibles, originating from copper smelting.

The entries referred to in points (d) and (e) shall not apply for exports to countries to which the OECD Decision does not apply.

The following mixtures of wastes classified under separate indents or sub- indents of one single entry are included in this Annex:

- (a) mixtures of wastes classified under Basel entry B1010;  
mixtures of wastes classified under Basel entry B2010;  
mixtures of wastes classified under Basel entry B2030;  
mixtures of wastes classified under Basel entry B3020 restricted to unbleached paper or paperboard or of corrugated paper or paperboard, other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass, paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter);

mixtures of wastes classified under Basel entry B3030;

mixtures of wastes classified under Basel entry B3040;

mixtures of wastes classified under Basel entry B3050.

The following mixtures of wastes classified under separate indents or sub- indents of one single entry are included in this Annex only for the purposes of shipments destined for recycling within the Union:

(a) mixtures of wastes classified under entry EU3011 and listed under the indent referring to non-halogenated polymers;

mixtures of wastes classified under entry EU3011 and listed under the indent referring to cured resins or condensation products;

mixtures of wastes classified under entry EU3011 and listed under 'perfluoroalkoxy alkanes'.

### **ANNEX IIIB**

#### **ADDITIONAL GREEN LISTED WASTE**

1. Regardless of whether or not wastes are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which:
  - (a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account **the provisions of list of waste referred to in Article 7 of Directive 2008/98/EC as well as the hazardous properties characteristics listed in Annex III to that Directive 2008/98/EC of the European Parliament and of the Council**<sup>2</sup>; or
  - (b) prevents the recovery of the wastes in an environmentally sound manner.

The following wastes are included in this Annex:

BEU04 Composite packaging consisting of mainly paper and some plastic, not containing residues and not covered by Basel entry B3020

BEU05 Clean biodegradable waste from agriculture, horticulture, forestry, gardens, parks and cemeteries

The shipments of waste listed in this Annex are without prejudice to the provisions of Regulation (EU) 2016/2031.

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<sup>2</sup> OJ L 312, 22.11.2008, p. 3.

**ANNEX IV**  
**LIST OF WASTES SUBJECT TO THE PROCEDURE OF PRIOR WRITTEN  
NOTIFICATION AND CONSENT ('AMBER' LISTED WASTE)<sup>1</sup>**

**Part I**

The following wastes will be subject to the procedure of prior written notification and consent:

Wastes listed in Annexes II and VIII to the Basel Convention<sup>2</sup>.

**Commented [Swe48]:** Change in footnote, suggestion made by DE.

For the purposes of this Regulation:

- (a) Any reference to list B in Annex IX to the Basel Convention shall be understood as a reference to Annex III to this Regulation.
- (b) In Basel entry A1010, the term 'excluding such wastes specifically listed on List B (Annex IX)' is a reference both to Basel entry B1020 and the note on B1020 in Annex III to this Regulation, Part I(b).
- (c) Basel entries A1180 and A2060 do not apply and OECD entries GC010, GC020 and GG040 in Annex III, Part II apply instead when appropriate.
- (d) Basel entry A4050 includes spent potlinings from aluminium smelting because they contain Y33 inorganic cyanides. If the cyanides have been destroyed, spent potlinings are assigned to Part II entry AB120 because they contain Y32, inorganic fluorine compounds excluding calcium fluoride.
- (e) Basel entry A3210 does not apply and entry AC300 in part II applies instead.
- (f) For ~~waste shipped~~ **shipments** within the Union, Basel entry Y48 does not apply and the following entry applies instead:

EU48 Plastic waste not covered by entry AC300 in part II or by entry EU3011 in part I of Annex III, as well as mixtures of plastic waste not covered by point 4 of Annex IIIA.

<sup>1</sup> This list originates from the OECD Decision, Appendix 4.

<sup>2</sup> Annex VIII to the Basel Convention is listed in this Regulation in Annex V, Part 1, List A. Annex II to the Basel Convention is listed in **Annex V, Part 2, List A** contains the following entries: Y46 Waste collected from households unless appropriately classified under a single entry in Annex III. Y47 Residues arising from the incineration of household wastes.

## Part II:

The following wastes will also be subject to the procedure of written notification and consent:

### *Metal bearing wastes*

<b>AA010</b>	261900	Dross, scalings and other wastes from the manufacture of iron and steel <sup>1</sup>
<b>AA060</b>	ex 262099	Vanadium ashes and residues <sup>1</sup>
<b>AA190</b>	810420 ex 810430	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities

### *Wastes containing principally inorganic constituents, which may contain metals and organic materials*

<b>AB030</b>		Wastes from non-cyanide based systems which arise from surface treatment of metals
<b>AB070</b>		Sands used in foundry operations
<b>AB120</b>	ex 281290 ex 3824	Inorganic halide compounds, not elsewhere specified or included
<b>AB130</b>		Used blasting grit
<b>AB150</b>	ex 382499	Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)

### *Wastes containing principally organic constituents, which may contain metals and inorganic materials*

<b>AC020</b>		Bituminous materials (asphalt waste) not elsewhere specified or included
<b>AC060</b>	ex 381900	Hydraulic fluids
<b>AC070</b>	ex 381900	Brake fluids
<b>AC080</b>	ex 382000	Antifreeze fluids
<b>AC150</b>		Chlorofluorocarbons
<b>AC160</b>		Halons
<b>AC170</b>	ex 440310 <sup>1</sup>	Treated cork and wood wastes

**Commented [Swe49]:** Correction. Not contained in the current WSR and the OECD Decision

<sup>1</sup> This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

ex 440312

- AC250** Surface active agents (surfactants)
- AC260** ex 3101 Liquid pig manure; faeces
- AC270** Sewage sludge
- AC300** Plastic waste, including mixtures of such wastes, containing or contaminated with Annex I constituents, to an extent that it exhibits an Annex III characteristic (note the related entry EU3011 in part I of Annex III, and the related entry EU48 in part I)

*Wastes which may contain either inorganic or organic constituents*

- AD090** ex 382490~~2~~ Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
- AD100** Wastes from non-cyanide based systems which arise from surface treatment of plastics
- AD120** ex 391400 Ion exchange resins  
ex 3915
- AD150** Naturally occurring organic material used as a filter medium (such as bio-filters)

*Wastes Containing Principally Inorganic Constituents, Which May Contain Metals and Organic Materials*

- RB020** ex 6815 Ceramic based fibres of physico-chemical characteristics similar to those of asbestos

## ANNEX V

### WASTE LISTS FOR THE PURPOSE OF ARTICLE 36

#### Introductory notes

1. This Annex applies without prejudice to Directive 2008/98/EC.
2. This Annex consists of two parts. Article 36 further refers to the list of waste as referred to in Article 7 of Directive 2008/98/EC. For the purposes of this Regulation and to determine whether a specific waste is listed as referred to **covered by the export prohibition in Article 36** of this Regulation, the list of waste as referred to in Article 7 of Directive 2008/98/EC applies only when Part 1 of this Annex is not applicable. If a waste is not listed in Part 1 of this Annex or in the list of waste as referred to in Article 7 of Directive 2008/98/EC, only then it ~~should~~ **must** be checked if it is listed in Part 2 of this Annex.

Commented [Swe50]: Proposed clarification

Part 1 of this Annex is divided into two sub-sections: List A lists wastes which are classified as hazardous by Article 1(1)(a) of the Basel Convention, and therefore covered by the export prohibition, and List B lists wastes which are not covered by Article 1(1)(a) of the Basel Convention, and therefore not covered by the export prohibition.

Thus, if a waste is listed in Part 1, a check must be made to ascertain whether it is listed in List A or in List B. Only if a waste is not listed in either List A or List B of Part 1, must a check be made to ascertain whether it is listed either among the hazardous waste listed in the list of waste as referred to in Article 7 of Directive 2008/98/EC (i.e. types of waste marked with an asterisk) or in Part 2 of this Annex, and if this is the case, it is covered by the export prohibition.

3. Wastes listed in List B of Part 1 or which are among the non-hazardous waste listed in the list of waste as referred to in Article 7 of Directive 2008/98/EC (i.e. wastes not marked with an asterisk) are covered by the export prohibition if they are contaminated by other materials to an extent which
  - (a) increases the risks associated with the waste sufficiently to render it appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous **properties characteristics** listed in Annex III to Directive 2008/98/EC; or
  - (b) prevents the recovery of the waste in an environmentally sound manner.



**Part 1<sup>33</sup>**

*List A (Annex VIII to the Basel Convention)*

**A1 Metal and metal bearing wastes**

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony
- Arsenic
- Beryllium
- Cadmium
- Lead
- Mercury
- Selenium
- Tellurium
- Thallium

but excluding such wastes specifically listed on list B.

A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds
- Beryllium; beryllium compounds
- Cadmium; cadmium compounds
- Lead; lead compounds
- Selenium; selenium compounds
- Tellurium; tellurium compounds

A1030 Wastes having as constituents or contaminants any of the following:

- Arsenic; arsenic compounds
- Mercury; mercury compounds
- Thallium; thallium compounds

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<sup>33</sup> References in Lists A and B to Annexes I, III and IV refer to Annexes of the Basel Convention

- A1040 Wastes having as constituents any of the following:
- Metal carbonyls
  - Hexavalent chromium compounds
- A1050 Galvanic sludges
- A1060 Waste liquors from the pickling of metals
- A1070 Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.
- A1080 Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics
- A1090 Ashes from the incineration of insulated copper wire
- A1100 Dusts and residues from gas cleaning systems of copper smelters
- A1110 Spent electrolytic solutions from copper electrorefining and electrowinning operations
- A1120 Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations
- A1130 Spent etching solutions containing dissolved copper
- A1140 Waste cupric chloride and copper cyanide catalysts
- A1150 Precious metal ash from incineration of printed circuit boards not included on list B<sup>34</sup>
- A1160 Waste lead-acid batteries, whole or crushed
- A1170 Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous.
- A1180 Waste electrical and electronic assemblies or scrap<sup>35</sup> containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B, B1110)<sup>36</sup>
- A1190 Waste metal cables coated or insulated with plastics containing or contaminated with coal tar, PCB<sup>37</sup>, lead, cadmium, other organohalogen compounds or other Annex I constituents, to the extent that they exhibit Annex III characteristics

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<sup>34</sup> Note that mirror entry on list B (B1160) does not specify exceptions.

<sup>35</sup> This entry does not include scrap assemblies from electric power generation.

<sup>36</sup> PCBs are at a concentration level of 50 mg/kg or more.

<sup>37</sup> PCBs are at a concentration level of 50 mg/kg or more.

**A2 Wastes containing principally inorganic constituents, which may contain metals and organic materials**

- A2010 Glass waste from cathode-ray tubes and other activated glasses
- A2020 Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified on list B
- A2030 Waste catalysts but excluding such wastes specified on list B
- A2040 Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on list B, B2080)
- A2050 Waste asbestos (dusts and fibres)
- A2060 Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on list B, B2050)

**A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials**

- A3010 Waste from the production or processing of petroleum coke and bitumen
- A3020 Waste mineral oils unfit for their originally intended use
- A3030 Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges
- A3040 Waste thermal (heat transfer) fluids
- A3050 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified on list B (note the related entry on list B, B4020)
- A3060 Waste nitrocellulose
- A3070 Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges
- A3080 Waste ethers not including those specified on list B
- A3090 Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on list B, B3100)

- A3100 Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on list B, B3090)
- A3110 Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list B, B3110)
- A3120 Fluff - light fraction from shredding
- A3130 Waste organic phosphorous compounds
- A3140 Waste non-halogenated organic solvents but excluding such wastes specified on list B
- A3150 Waste halogenated organic solvents
- A3160 Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations
- A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)
- A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more<sup>38</sup>
- A3190 Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolytic treatment of organic materials
- A3200 Bituminous material (asphalt waste) from road construction and maintenance, containing tar (note the related entry on list B B2130)
- A3210 Plastic waste, including mixtures of such waste, containing or contaminated with Annex I constituents, to an extent that it exhibits an Annex III characteristic (note the related entry B3011, in list B of this Part, and entry Y48, in list A of Part 2)

#### **A4 Wastes which may contain either inorganic or organic constituents**

- A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B
- A4020 Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects

<sup>38</sup> The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g. 20 mg/kg) for specific wastes.

- A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides that are off-specification, out-dated<sup>39</sup>, or unfit for their originally intended use
- A4040 Wastes from the manufacture, formulation and use of wood-preserving chemicals<sup>40</sup>
- A4050 Wastes that contain, consist of or are contaminated with any of the following:
- Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides
  - Organic cyanides
- A4060 Waste oils/water, hydrocarbons/water mixtures, emulsions
- A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B, B4010)
- A4080 Wastes of an explosive nature (but excluding such wastes specified on list B)
- A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry on list B (note the related entry on list B, B2120)
- A4100 Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified on list B
- A4110 Wastes that contain, consist of or are contaminated with any of the following:
- any congener of polychlorinated dibenzo-furan
  - any congener of polychlorinated dibenzo-dioxin
- A4120 Wastes that contain, consist of or are contaminated with peroxides
- A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics
- A4140 Waste consisting of or containing off-specification or out-dated<sup>41</sup> chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics
- A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known
- A4160 Spent activated carbon not included on list B (note the related entry on list B, B2060)

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<sup>39</sup> "Out-dated" means unused within the period recommended by the manufacturer.

<sup>40</sup> This entry does not include wood treated with wood-preserving chemicals.

<sup>41</sup> "Out-dated" means unused within the period recommended by the manufacturer.

*List B (Annex IX to the Basel Convention)*

**B1 Metal and metal bearing wastes**

B1010 Metal and metal-alloy wastes in metallic, non-dispersible form:

- Precious metals (gold, silver, the platinum group, but not mercury)
- Iron and steel scrap
- Copper scrap
- Nickel scrap
- Aluminium scrap
- Zinc scrap
- Tin scrap
- Tungsten scrap
- Molybdenum scrap
- Tantalum scrap
- Magnesium scrap
- Cobalt scrap
- Bismuth scrap
- Titanium scrap
- Zirconium scrap
- Manganese scrap
- Germanium scrap
- Vanadium scrap
- Scrap of Hafnium, Indium, Niobium, Rhenium and Gallium
- Thorium scrap
- Rare earths scrap
- Chromium scrap

B1020 Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc):

- Antimony scrap
- Beryllium scrap
- Cadmium scrap
- Lead scrap (but excluding lead-acid batteries)
- Selenium scrap
- Tellurium scrap

B1030 Refractory metals containing residues

B1031 Molybdenum, tungsten, titanium, tantalum, niobium and rhenium metal and metal alloy wastes in metallic dispersible form (metal powder), excluding such wastes as specified in list A under entry A1050, Galvanic sludges.

B1040 Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous

B1050 Mixed non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics<sup>42</sup>

B1060 Waste of Selenium and Tellurium in metallic elemental form including powder

B1070 Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics

B1080 Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentration such as to exhibit Annex III characteristics or exhibiting hazard characteristic H4.3<sup>43</sup>

B1090 Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury

B1100 Metal-bearing wastes arising from melting, smelting and refining of metals:

- Hard zinc spelter
- Zinc-containing drosses:
  - Galvanizing slab zinc top dross (>90 % Zn)
  - Galvanizing slab zinc bottom dross (>92 % Zn)
  - Zinc die casting dross (>85 % Zn)

<sup>42</sup> Note that even where low level contamination with Annex I materials initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly enhanced concentrations of those Annex I materials.

<sup>43</sup> The status of zinc ash is currently under review and there is a recommendation with United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

- Hot dip galvanizers slab zinc dross (batch) (>92 % Zn)
- Zinc skimmings
- Aluminium skimmings (or skims) excluding salt slag
- Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extent that they exhibit Annex III hazard characteristics
- Wastes of refractory linings, including crucibles, originating from copper smelting
- Slags from precious metals processing for further refining
- Tantalum bearing tin slags with less than 0.5 % tin

B1110 Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap<sup>44</sup> (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A, A1180)
- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct re-use<sup>45</sup> and not for recycling or final disposal<sup>46</sup>

B1115 Waste metal cables coated or insulated with plastics, not included in entry A1190, excluding those destined for Annex IVA operations or any other disposal operations involving, at any stage, uncontrolled thermal processes, such as open-burning

B1120 Spent catalysts excluding liquids used as catalysts, containing any of:

<ul style="list-style-type: none"> <li>- Transition Metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) on list A</li> </ul>	Scandium	Titanium
	Vanadium	Chromium
	Manganese	Iron
	Cobalt	Nickel
	Copper	Zinc
	Yttrium	Zirconium
	Niobium	Molybdenum
	Hafnium	Tantalum
	Tungsten	Rhenium

<sup>44</sup> This entry does not include scrap from electrical power generation.

<sup>45</sup> Re-use can include repair, refurbishment or upgrading, but not major reassembly.

<sup>46</sup> In some countries, these materials destined for direct re-use are not considered wastes.



– Lanthanides (rare earth metals):	Lanthanum	Cerium
	Praseodymium	Neodymium
	Samarium	Europium
	Gadolinium	Terbium
	Dysprosium	Holmium
	Erbium	Thulium
	Ytterbium	Lutetium

- B1130 Cleaned spent precious-metal-bearing catalysts
- B1140 Precious-metal-bearing residues in solid form, which contain traces of inorganic cyanides
- B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labelling
- B1160 Precious-metal ash from the incineration of printed circuit boards (note the related entry on list A, A1150)
- B1170 Precious-metal ash from the incineration of photographic film
- B1180 Waste photographic film containing silver halides and metallic silver
- B1190 Waste photographic paper containing silver halides and metallic silver
- B1200 Granulated slag arising from the manufacture of iron and steel
- B1210 Slag arising from the manufacture of iron and steel including slags as a source of  $TiO_2$  and Vanadium
- B1220 Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301) mainly for construction
- B1230 Mill scaling arising from the manufacture of iron and steel
- B1240 Copper oxide mill-scale
- B1250 Waste end-of-life motor vehicles, containing neither liquids nor other hazardous components

**B2 Wastes containing principally inorganic constituents, which may contain metals and organic materials**

- B2010 Wastes from mining operations in non-dispersible form:
  - Natural graphite waste
  - Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise

- Mica waste
- Leucite, nepheline and nepheline syenite waste
- Feldspar waste
- Fluorspar waste
- Silica wastes in solid form excluding those used in foundry operations

B2020 Glass waste in non-dispersible form:

- Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses

B2030 Ceramic wastes in non-dispersible form:

- Cermet wastes and scrap (metal ceramic composites)
- Ceramic based fibres not elsewhere specified or included

B2040 Other wastes containing principally inorganic constituents:

- Partially refined calcium sulphate produced from flue-gas desulphurization (FGD)
- Waste gypsum wallboard or plasterboard arising from the demolition of buildings
- Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
- Sulphur in solid form
- Limestone from the production of calcium cyanamide (having a pH less than 9)
- Sodium, potassium, calcium chlorides
- Carborundum (silicon carbide)
- Broken concrete
- Lithium-Tantalum and Lithium-Niobium containing glass scraps

B2050 Coal-fired power plant fly-ash, not included on list A (note the related entry on list A, A2060)

B2060 Spent activated carbon **not containing any Annex I constituents to the extent that they exhibit Annex III characteristics, for example, carbon** resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on list A, A4160)

**Commented [SE 51]:** Correction, compare Annex IX and also Annex V to the current WSR

- B2070 Calcium fluoride sludge
- B2080 Waste gypsum arising from chemical industry processes not included on list A (note the related entry on list A, A2040)
- B2090 Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)
- B2100 Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes
- B2110 Bauxite residue ("red mud") (pH moderated to less than 11.5)
- B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry on list A, A4090)
- B2130 Bituminous material (asphalt waste) from road construction and maintenance, not containing tar<sup>47</sup> (note the related entry on A, A3200)**

**Commented [SE 52]:** Correction, the text is now as in the current WSR.

**B3 Wastes containing principally organic constituents, which may contain metals and inorganic materials**

- B3011 Plastic waste (note the related entry A3210, in list A of this Part, and entry Y48, in list A of Part 2)
- Plastic waste listed below, provided it is destined for recycling<sup>48</sup> in an environmentally sound manner and almost free from contamination and other types of wastes<sup>49</sup>:
    - Plastic waste almost exclusively<sup>50</sup> consisting of one non-halogenated polymer, including but not limited to the following polymers:
      - Polyethylene (PE)
      - Polypropylene (PP)
      - Polystyrene (PS)
      - Acrylonitrile butadiene styrene (ABS)

<sup>47</sup> **The concentration level of Benzol[a]pyrene should not be 50mg/kg or more**

<sup>48</sup> Recycling/reclamation of organic substances that are not used as solvents (R3 in Annex IV, sect. B) or, if needed, temporary storage limited to one instance, provided that it is followed by operation R3 and evidenced by contractual or relevant official documentation.

<sup>49</sup> In relation to 'almost free from contamination and other types of wastes', international and national specifications may offer a point of reference.

<sup>50</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

- Polyethylene terephthalate (PET)
- Polycarbonates (PC)
- Polyethers
- Plastic waste almost exclusively<sup>51</sup> consisting of one cured resin or condensation product, including but not limited to the following resins:
  - Urea formaldehyde resins
  - Phenol formaldehyde resins
  - Melamine formaldehyde resins
  - Epoxy resins
  - Alkyd resins
- Plastic waste almost exclusively<sup>52</sup> consisting of one of the following fluorinated polymers<sup>53</sup>:
  - Perfluoroethylene/propylene (FEP)
  - Perfluoroalkoxy alkanes:
    - Tetrafluoroethylene/perfluoroalkyl vinyl ether (PFA)
    - Tetrafluoroethylene/perfluoromethyl vinyl ether (MFA)
  - Polyvinylfluoride (PVF)
  - Polyvinylidene fluoride (PVDF)
- Mixtures of plastic waste, consisting of polyethylene (PE), polypropylene (PP) and/or polyethylene terephthalate (PET), provided they are destined for separate recycling<sup>54</sup> of each material and in an environmentally sound manner, and almost free from contamination and other types of wastes<sup>55</sup>.

<sup>51</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

<sup>52</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

<sup>53</sup> Post-consumer wastes are excluded.

<sup>54</sup> Recycling/reclamation of organic substances that are not used as solvents (R3 in Annex IV, sect. B), with prior sorting and, if needed, temporary storage limited to one instance, provided that it is followed by operation R3 and evidenced by contractual or relevant official documentation.

<sup>55</sup> In relation to 'almost free from', international and national specifications may offer a point of reference.

B3020 Paper, paperboard and paper product wastes

The following materials, provided they are not mixed with hazardous wastes:

Waste and scrap of paper or paperboard of:

- unbleached paper or paperboard or of corrugated paper or paperboard
- other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass
- paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)
- other, including but not limited to
  - 1) laminated paperboard;
  - 2) unsorted scrap

B3026 The following waste from the pre-treatment of composite packaging for liquids, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics:

- Non-separable plastic fraction
- Non-separable plastic-aluminium fraction

B3027 Self-adhesive label laminate waste containing raw materials used in label material production

B3030 Textile wastes

The following materials, provided they are not mixed with other wastes and are prepared to a specification:

- Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
  - not carded or combed
  - other
- Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
  - noils of wool or of fine animal hair
  - other waste of wool or of fine animal hair

- waste of coarse animal hair
- Cotton waste (including yarn waste and garnetted stock)
  - yarn waste (including thread waste)
  - garnetted stock
  - other
- Flax tow and waste
- Tow and waste (including yarn waste and garnetted stock) of true hemp (Cannabis sativa L.)
- Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
- Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave
- Tow, noils and waste (including yarn waste and garnetted stock) of coconut
- Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or Musa textilis Nee)
- Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
- Waste (including noils, yarn waste and garnetted stock) of man-made fibres
  - of synthetic fibres
  - of artificial fibres
- Worn clothing and other worn textile articles
- Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile
  - sorted
  - other

B3035 Waste textile floor coverings, carpets

B3040 Rubber wastes

The following materials, provided they are not mixed with other wastes:

- Waste and scrap of hard rubber (e.g. ebonite)
- Other rubber wastes (excluding such wastes specified elsewhere)

B3050 Untreated cork and wood waste:

- Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
- Cork waste: crushed, granulated or ground cork

B3060 Wastes arising from agro-food industries provided it is not infectious:

- Wine lees
- Dried and sterilized vegetable waste, residues and byproducts, whether or not in the form of pellets, or a kind used in animal feeding, not elsewhere specified or included
- Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes
- Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
- Fish waste
- Cocoa shells, husks, skins and other cocoa waste
- Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption

B3065 Waste edible fats and oils of animal or vegetable origin (e.g. frying oils), provided they do not exhibit an Annex III characteristic

B3070 The following wastes:

- Waste of human hair
- Waste straw
- Deactivated fungus mycelium from penicillin production to be used as animal feed

B3080 Waste parings and scrap of rubber

B3090 Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry on list A, A3100)

B3100 Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry on list A, A3090)

B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list A, A3110)

- B3120 Wastes consisting of food dyes
- B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides
- B3140 Waste pneumatic tyres, excluding those destined for Annex IVA operations

**B4 Wastes which may contain either inorganic or organic constituents**

- B4010 Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry on list A, A4070)
- B4020 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g. water based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on list A, A3050)
- B4030 Used single use cameras, with batteries not included on list A

**Part 2**

*List A (Annex II to the Basel Convention)*

- Y46** Waste collected from households<sup>56</sup>
- Y47** Residues arising from the incineration of household wastes
- Y48** Plastic waste, including mixtures of such waste, with the exception of the following:
- Plastic waste that is hazardous waste (see entry A3210 in list A of part 1 in Annex V)
  - Plastic waste listed below, provided it is destined for recycling<sup>57</sup> in an environmentally sound manner and almost free from contamination and other types of wastes<sup>58</sup>:

<sup>56</sup> Unless appropriately classified under a single entry in Annex III.

<sup>57</sup> Recycling/reclamation of organic substances that are not used as solvents (R3 in Annex IV, sect. B) or, if needed, temporary storage limited to one instance, provided that it is followed by operation R3 and evidenced by contractual or relevant official documentation

<sup>58</sup> In relation to 'almost free from contamination and other types of wastes', international and national specifications may offer a point of reference.



- Plastic waste almost exclusively<sup>59</sup> consisting of one non-halogenated polymer, including but not limited to the following polymers:
  - Polyethylene (PE)
  - Polypropylene (PP)
  - Polystyrene (PS)
  - Acrylonitrile butadiene styrene (ABS)
  - Polyethylene terephthalate (PET)
  - Polycarbonates (PC)
  - Polyethers
- Plastic waste almost exclusively<sup>60</sup> consisting of one cured resin or condensation product, including but not limited to the following resins:
  - Urea formaldehyde resins
  - Phenol formaldehyde resins
  - Melamine formaldehyde resins
  - Epoxy resins
  - Alkyd resins
- Plastic waste almost exclusively<sup>61</sup> consisting of one of the following fluorinated polymers<sup>62</sup>:
  - Perfluoroethylene/propylene (FEP)
  - Perfluoroalkoxy alkanes:
  - Tetrafluoroethylene/perfluoroalkyl vinyl ether (PFA)
  - Tetrafluoroethylene/perfluoromethyl vinyl ether (MFA)
  - Polyvinylfluoride (PVF)
  - Polyvinylidene fluoride (PVDF)

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<sup>59</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

<sup>60</sup> In relation to 'almost exclusively', international and national specifications may offer a point of reference.

<sup>61</sup> **In relation to 'almost exclusively', international and national specifications may offer a point of reference.**

<sup>62</sup> Post-consumer wastes are excluded.

- Mixtures of plastic waste, consisting of polyethylene (PE), polypropylene (PP) and/or polyethylene terephthalate (PET), provided they are destined for separate recycling<sup>63</sup> of each material and in an environmentally sound manner and almost free from contamination and other types of wastes<sup>64</sup>.

*List B (Waste from Appendix 4, Part II of the OECD Decision)*<sup>65</sup>

*Metal bearing wastes*

<b>AA 010</b>	261900	Dross, scalings and other wastes from the manufacture of iron and steel <sup>66</sup>
<b>AA 060</b>	262099	Vanadium ashes and residues
<b>AA 190</b>	810420 ex 810430	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities

*Wastes containing principally inorganic constituents, which may contain metals and organic materials*

<b>AB 030</b>		Wastes from non-cyanide based systems which arise from surface treatment of metals
<b>AB 070</b>		Sands used in foundry operations
<b>AB 120</b>	ex 281290 ex 3824	Inorganic halide compounds, not elsewhere specified or included
<b>AB 150</b>	ex 382499	Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)

<sup>63</sup> Recycling/reclamation of organic substances that are not used as solvents (R3 in Annex IV, sect. B), with prior sorting and, if needed, temporary storage limited to one instance, provided that it is followed by operation R3 and evidenced by contractual or relevant official documentation.

<sup>64</sup> In relation to 'almost free from contamination and other types of wastes', international and national specifications may offer a point of reference.

<sup>65</sup> The wastes numbered AB130, AC250, AC260 and AC270 have been deleted since they have been considered, in accordance with the procedure laid down in Article 18 of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste (OJ L 114, 27.4.2006, p. 9, as repealed by Directive 2008/98/EC), to be non-hazardous and therefore not subject to the export prohibition in Article 36 of this Regulation. The waste numbered AC300 has been deleted since the waste in question is covered by entry A3210 in List A of part 1.

<sup>66</sup> This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

*Wastes containing principally organic constituents, which may contain metals and inorganic materials*

<b>AC 060</b>	ex 381900	Hydraulic fluids
<b>AC 070</b>	ex 381900	Brake fluids
<b>AC 080</b>	ex 382000	Antifreeze fluids
<b>AC 150</b>		Chlorofluorocarbons
<b>AC 160</b>		Halons
<b>AC 170</b>	ex 440310 <del>1</del> ex 440312	Treated cork and wood wastes

*Wastes which may contain either inorganic or organic constituents*

<b>AD 090</b>	ex 382490 <del>9</del>	Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
<b>AD 100</b>		Wastes from non-cyanide based systems which arise from surface treatment of plastics
<b>AD 120</b>	ex 391400 ex 3915	Ion exchange resins
<b>AD 150</b>		Naturally occurring organic material used as a filter medium (such as bio-filters)

*Wastes containing principally inorganic constituents, which may contain metals and organic materials*

<b>RB 020</b>	ex 6815	Ceramic based fibres of physico-chemical characteristics similar to those of asbestos
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**ANNEX VII**  
**INFORMATION ACCOMPANYING SHIPMENTS OF WASTE**  
**AS REFERRED TO IN ARTICLE 4(3) AND (4)**

Consignment information<sup>67</sup>

<b>1. Person who arranges the shipment</b> Name: Address: Contact person: Tel: E-mail:		<b>2. Importer/consignee</b> Name: Address: Contact person: Tel: E-mail:	
<b>3. Actual quantity:</b> Tonnes (Mg): m <sup>3</sup> :		<b>4.(a) Actual date of shipment :</b>  <b>4.(b) (if applicable) container identification number:</b>	
<b>5.(a) First carrier<sup>68</sup></b> Name: Address: Contact person: Tel: E-mail: Means of transport: Date of transfer: Signature:	<b>5.(b) Second carrier</b> Name: Address: Contact person: Tel: E-mail: Means of transport: Date of transfer: Signature:	<b>5.(c) Third carrier</b> Name: Address: Contact person: Tel: E-mail: Means of transport: Date of transfer: Signature:	
<b>6. Waste generator/producer<sup>69</sup></b> Name: Address: Contact person: Tel: E-mail:		<b>8. Recovery operation (or if appropriate disposal operation in the case of waste referred to in Article 4(3d))</b> R-code/D-code:	
<b>6a. Location from which the shipment starts</b> <u>Address:</u> <b>Name of the person responsible for this location<sup>70</sup>:</b> <u>Address:</u> <b>Contact person:</b> <u>Tel:</u> <u>E-mail:</u>		<b>9. Usual description of the waste</b>	
<b>7. Recovery facility<sup>69bis</sup></b> <input type="checkbox"/> <b>Laboratory</b> <input type="checkbox"/> Name: Address: Contact person: Tel: E-mail:		<b>10. Waste identification (fill in relevant codes):</b> i. Basel Annex IX: ii. OECD (if different from (i)): iii. Annex IIIA <sup>71</sup> : iv. Annex IIIB <sup>72</sup> : v. EU list of wastes: vi. National code: vii. Other (please specify):	
<b>11. Countries/states concerned:</b>			
Export/dispatch	Transit	Import/destination	
<b>12. Declaration[s] of the person who arranges the shipment [and the producer's]:</b> I certify that the above information is complete and correct to my best knowledge. I also certify that effective written <b>contractual</b> obligations have been entered into with the consignee (not required in the case of waste referred to in Article 4(3d)):			

<sup>67</sup> Information accompanying shipments of green listed waste and destined for recovery or waste destined for laboratory analysis pursuant to [new Regulation number]

<sup>68</sup> Provide information for all carriers involved in the concerned shipment.

<sup>69</sup> When the person who arranges the shipment is not the waste producer or collector, information about the waste producer or collector shall be provided.

**69bis** **In case of R12/R13 operation, also attach corresponding information on the subsequent R1-R13 facility(ies).**

<sup>70</sup> Insert "Same as in block 1" or "Same as in block 6" if applicable.

<sup>71</sup> The relevant code(s) as indicated in Annex IIIA to Regulation [new] are to be used, as appropriate in sequence. Certain Basel entries such as B1100 and B3020 are restricted to particular waste streams only, as indicated in Annex IIIA.

<sup>72</sup> The BEU codes listed in Annex IIIB to Regulation [new] are to be used.

[Person who arranges the shipment] Name:		Date:	Signature:
[Producer's name:		Date:	Signature:]
<b>13. Signature upon receipt of the waste by the consignee:</b>			
Name:		Date:	Signature:
<b>TO BE COMPLETED BY THE RECOVERY FACILITY OR BY THE LABORATORY:</b>			
<b>14. Shipment received at recovery facility <input type="checkbox"/> or laboratory <input type="checkbox"/></b>			
Quantity received:			
Tonnes (Mg):		m <sup>3</sup> :	
Name:		Date:	Signature:
<b>15. Waste recovered at the recovery facility:</b>			
Quantity prepared for re-use or recycled <input type="checkbox"/> other recovery <input type="checkbox"/>			
Tonnes (Mg):		m <sup>3</sup> :	
Name:		Date:	Signature:

Obtenu par CONTEXTE

**ANNEX VIII**

REQUEST FOR INCLUSION IN THE LIST OF COUNTRIES TO WHICH THE EXPORT **FROM THE EUROPEAN UNION** OF **NON-HAZARDOUS WASTES AND MIXTURES OF NON-HAZARDOUS WASTES** DESTINED FOR RECOVERY FROM THE EUROPEAN UNION ARE IS AUTHORISED

**Part 1**

**Request to receive non-hazardous waste(s) and mixtures of non-hazardous wastes from the European Union**

*Hereby, (name and contact details of competent authority)....., on behalf of (country) ..... (hereafter 'the country') declares that the country wishes to receive the **non-hazardous wastes(s) and mixtures of non-hazardous wastes** specified in Part 2, point 1, of this request from the European Union and declares that the country has an adequate waste management regulatory framework and strategy in place, and is taking adequate enforcement measures to manage the waste(s) concerned **without endangering human health and** in an environmentally sound manner.*

Place.....Date:.....Signature:.....

**Part 2**

**Information and supporting evidence**

List of wastes covered by the request

Description of the <b>non-hazardous wastes or mixtures of non-hazardous wastes</b>	Relevant classification code <sup>73</sup>	Waste identification

Commented [SE 53]: In line with ia art 5.8

Please provide, in annex to this request, a detailed description of the national waste management strategy or plan of the country, including the following elements:

- (a) The **annual** amount of total waste generated in the country ~~on a yearly basis~~, as well as the **annual** amount of waste(s) covered by the scope of this request ("waste concerned by the request") **generated in the country**, and ~~estimations on~~ how these amounts ~~would be~~ **estimated to** develop in the next 10 years;
- (b) 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 be~~ **estimated to** develop in the next 10 years;

<sup>73</sup> Codes used in Annex IX of the Basel Convention or, if the waste is not listed in that Annex, waste **identification codes or descriptions** referred to in Annexes III **Part II, Annex IIIA or Annex IIIB** of this Regulation, ~~or in part 2 of Annex V or, if the waste is not listed in these Annexes, waste identification codes for non-hazardous waste 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.~~

- (c) the proportion of domestically generated waste that is separately collected, as well as possible objectives and measures to increase this rate in the future. Please provide this information for each of the most important types of domestic waste;
- (d) the proportion of domestic waste(s) concerned by the request that is landfilled, as well as possible objectives and measures to decrease this rate in the future;
- (e) the proportion of domestic waste(s) concerned by the request that is recycled, and any objectives and measures to increase this rate in the future;
- (f) information on the amount of waste that is littered and on measures taken to prevent and clean up litter;
- (g) a strategy on how to ensure the environmentally sound management of waste imported into its territory, including the possible impact of the management of imported waste on the management of waste generated domestically;
- (h) information on the methodology used to calculate the data referred to in points (a) to (f).

Please provide, in annex to this request, a description of domestic legal framework for waste management in place, including at least the following elements:

- (a) permitting or licensing system(s) for waste treatment facilities;
- (b) permitting, ~~or~~ licensing **or registration** system(s) for transport of waste;
- (c) provisions designed to ensure that the residual waste generated through the recovery operation for the waste(s) concerned is managed in an environmentally sound manner;
- (d) pollution controls applying to waste treatment operations, including in particular emission limits for the protection of air, soil and water and measures to reduce the emissions of greenhouse gases from these operations;
- (e) provisions on enforcement, inspection and penalties designed to ensure the implementation of domestic and international requirements on waste management and waste shipment.

Please provide, in annex to this request, a description of any other related legislation on the protection of the environment and **public human** health applicable to waste management operations.

Please provide, in annex to this request, a description of the domestic legislation on the import and export of the waste concerned by the request, and in particular on any specific control procedure applying to such import or export, such as prior written notification and consent as referred to in Article 6 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Please provide a list of facilities authorised under the domestic legislation of the country to recover the waste(s) **concerned covered by this** request (including at least the name and address of these facilities, their permit number, the types of **non-hazardous wastes or mixtures of non-hazardous** waste(s) that they are authorised to recover and their authorised treatment capacity). This should preferably be provided through a website link where information on the concerned facilities is publicly and electronically accessible (e.g. website link of the competent authority).

Please provide information on the status of the country with regard to its **membership status of ratification of** the following **multilateral environmental agreements**:

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Signed: yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
	Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>

**Commented [SE 54]:** One MS suggests that these agreements also should be added:

- **Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**
- **ILO Conventions**;

**Commented [SE 55]:** One MS proposes deletion of "signed...". This could however be relevant information. If keeping the wording above "status of ratification" the signing could be a relevant information. Otherwise only the ratification is of interest.

*By signing a treaty, a state expresses the intention to comply with the treaty. However, this expression of intent in itself is not binding. After approval has been granted under a state's own internal procedures, it will notify the other parties that they consent to be bound by the treaty. This is called ratification. The treaty is now officially binding on the state.*



Stockholm Convention on Persistent Organic Pollutants	Signed: yes <input type="checkbox"/> no <input type="checkbox"/> Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>
Minamata Convention on Mercury	Signed: yes <input type="checkbox"/> no <input type="checkbox"/> Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>
UN Framework Convention on Climate Change	Signed: yes <input type="checkbox"/> no <input type="checkbox"/> Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>
Paris Agreement	Signed: yes <input type="checkbox"/> no <input type="checkbox"/> Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>
Montreal Protocol on substances that deplete the ozone layer	Signed: yes <input type="checkbox"/> no <input type="checkbox"/> Ratified: yes <input type="checkbox"/> no <input type="checkbox"/>
Please provide, in annex to this request, a description of how the country complies with its obligations under the multilateral environmental agreements listed in point 7, in particular as regards the relevant reporting obligations thereof.	
Please provide, in annex to this request, a description of how the Framework for the environmentally sound management (ESM) of hazardous wastes and other wastes, technical guidelines and other guidance on the environmentally sound management of waste adopted under the Basel Convention are taken into consideration in the regime for the management of the waste concerned by the request.	
Please provide, in annex to this request, a detailed description of the country's strategy for enforcement of domestic legislation on waste management and waste shipment, covering in particular 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 to the relevant domestic rules.	

## **ANNEX IX**

### **POINTS OF REFERENCE FOR THE ASSESSMENT PERFORMED BY THE COMMISSION PURSUANT TO ARTICLE 40(1)**

#### **Part 1**

##### **EU legislation designed to ensure the environmentally sound management of waste**

1. Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Waste Framework Directive).
2. In addition to the EU Waste Framework Directive, the following pieces of EU legislation, which set out requirements for waste treatment operations, are relevant for the purpose of ensuring environmentally sound management of waste:
  - (a) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste<sup>74</sup>,
  - (b) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions **and the Best Available Techniques conclusions adopted for certain activities under the regime of this Directive.**
3. The following pieces of EU legislation, which set out requirements for specific waste streams, are also relevant for the purpose of ensuring environmentally sound management of waste:
  - (a) European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste;
  - (b) Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls;
  - (c) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles;
  - (d) 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;
  - (e) Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE);
  - (f) Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants.

#### **Part 2**

##### **International guidance on environmentally sound management of waste**

1. Guidelines and guidance documents adopted under the Basel **Convention**:

<sup>74</sup> Relevant for the treatment of residual waste that is generated during a recovery operation

**Commented [SE 56]:** Amendments to this Article has been suggested by one MS.

**Commented [SE 57]:** Proposed by one MS to reinsert two TGS that have been deleted; TG on the environmentally sound management of biomedical and health care wastes (Y1; Y3) and TG on the environmentally sound management of waste lead acid batteries, both adopted 2002.

- (a) Technical guidelines for the environmentally sound **disposal of hazardous wastes and other wastes in specially engineered landfill (D5)**<sup>75</sup>
- (b) **Technical guidelines on the environmentally sound incineration of hazardous wastes and other wastes as covered by disposal operations D10 and R1**<sup>76</sup>
- (c) Technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4)<sup>77</sup>

**Commented [SE 58]:** Noted by one MS that the two TGs should be referred to separately and with their full names.

**(cbis) Technical guidelines on the environmentally sound management of biomedical and health care wastes (Y1; Y3)**<sup>78</sup>

**(cter) Technical guidelines on the environmentally sound management of waste lead acid batteries**<sup>79</sup>

- (d) General technical guidelines for the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants<sup>80</sup>

**(dbis) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with 1,1,1 trichloro 2,2 bis (4 chlorophenyl) ethane (DDT)**<sup>81</sup>

- (e) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexabromocyclododecane (HBCD)<sup>82</sup>
- (f) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF)<sup>83</sup>

<sup>75</sup> **Adopted by the fifteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, June 2022**

<sup>76</sup> Adopted by the ~~fifteenth~~ meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, ~~June 2022~~~~September 1995~~.

<sup>77</sup> Adopted by the seventh meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2004.

<sup>78</sup> **Adopted by the sixth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, December 2002.**

<sup>79</sup> **Adopted by the sixth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, December 2002.**

<sup>80</sup> Adopted by the fourteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2019.

<sup>81</sup> **Adopted by the eighth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, December 2006.**

<sup>82</sup> Adopted by the twelfth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2015.

<sup>83</sup> Adopted by the eighth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, December 2006.

- (g) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters (PCP)<sup>84</sup>

**(gbis) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dicofol, dieldrin, endrin, heptachlor, hexachlorobenzene, hexachlorobutadiene, lindane, mirex, pentachlorobenzene, pentachlorophenol and its salts, perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical (POP Pesticides)**<sup>85</sup>

**(gter) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls including hexabromobiphenyl (PCBs, PCTs, PCNs or PBBs, including HBB)**<sup>86</sup>

- (h) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexabromodiphenyl ether and heptabromodiphenyl ether, or tetrabromodiphenyl ether and pentabromodiphenyl ether or decabromodiphenyl ether (POP-BDEs)<sup>87</sup>

**(hbis) Technical guidelines for the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls, pentachlorobenzene, polychlorinated naphthalenes or hexachlorobutadiene**<sup>88</sup>

<sup>84</sup> Adopted by the thirteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2017.

<sup>85</sup> **Adopted by the fifteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, June 2022.**

<sup>86</sup> **Adopted by the thirteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2017.**

<sup>87</sup> Adopted by the twelfth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2015.

<sup>88</sup> **Adopted by the fourteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2019.**

- (i) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene<sup>3</sup>
- (j) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with short-chain chlorinated paraffins<sup>89</sup>
- (k) Technical guidelines for the environmentally sound management of used and waste pneumatic tyres<sup>90</sup>

**(kbis) Technical guidelines for the environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds<sup>91</sup>**

**(kter) Technical guidelines for the environmentally sound co-processing of hazardous wastes in cement kilns<sup>92</sup>**

- (l) Guidance document on the environmentally sound management of used and end-of-life computing equipment<sup>93</sup>
- (m) Guidance document on environmentally sound management of used and end-of-life mobile phones<sup>94</sup>
- (n) Framework for the environmentally sound management of hazardous wastes and other wastes<sup>95</sup>
- (o) Practical manuals for the promotion of the environmentally sound management of wastes<sup>96</sup>

2. **Guidelines adopted by the OECD:**

<sup>89</sup> Adopted by the seventh meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2004.

<sup>90</sup> Adopted by the tenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2011.

<sup>91</sup> **Adopted by the fifteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, June 2022.**

<sup>92</sup> **Adopted by the tenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2011.**

<sup>93</sup> Adopted by the thirteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2017.

<sup>94</sup> **Adopted by the tenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2011.**

<sup>95</sup> Adopted by the eleventh meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, October 2013

<sup>96</sup> **Adopted by the thirteenth and fourteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, May 2017 and May 2019**

- (a) Technical guidance for the environmentally sound management of specific waste streams: Used and scrap personal computers<sup>97</sup>

**Commented [SE 59]:** Proposal to delete - not up to date compared to the Guidance document on the environmentally sound management of used and end-of-life computing equipment in point 1(k) adopted 2017.  
PRES proposes this to be kept.

Obtenu par CONTEXTIA

<sup>97</sup> Adopted by the Environment Policy Committee of the OECD in February 2003 (document ENV/EPOC/WGWPR(2001)3/FINAL).

## ANNEX X

### **CRITERIA DESIGNED TO DEMONSTRATE THAT A FACILITY MANAGES WASTE EXPORTED FROM THE UNION IN AN ENVIRONMENTALLY SOUND MANNER PURSUANT TO ARTICLE 43**

1. The audit referred in Article 43(2) ~~shall verify~~ that the facility managing the waste in the country of destination complies with the following conditions:
  - (a) it is authorised by its competent authorities to import and treat this waste (evidence to be provided notably through production of corresponding permits or licences) and is carrying out its activities in accordance with relevant applicable domestic legislation on environmental protection;
  - (b) it is designed, constructed and operated in a safe and environmentally sound manner and, in particular, it has the required processes, organisation and infrastructure in place to treat the waste in question, and insurances covering potential risks and liabilities. To this end, as a minimum, information on the waste treatment methods, including how ~~they deal with~~ residual waste **is treated managed**, notably through downstream traceability, must be checked;
  - (c) it establishes management and monitoring systems, procedures and techniques that have the purpose of preventing, reducing, minimising and to the extent practicable eliminating:
    - (i) health and safety risks to workers concerned and to the population in the vicinity of the facility, and
    - (ii) adverse effects on the environment caused by its activities (in particular through adequate measures taken to monitor and address soil, water and air pollution, and other nuisances (odour, noise));
  - (d) it ensures the traceability of all waste received and treated at the facility, including ensuring that all residual waste generated from their activities are documented and are only transferred to waste management facilities that are authorised to ~~deal with their further treatment~~ **treat such residual waste**. To this end, as a minimum, information ~~shall should~~ be checked on:
    - the amount of waste that the facility is entitled to treat according to its permit/licences,
    - the amount of waste that ~~they~~ **facility** receives and recovers annually,
    - the amount of residual waste ~~generated by from~~ their activities, as well as evidence that this residual waste is ~~shipped to and~~ treated in an authorised waste treatment facility, **including in the case of export**;
  - (e) it has taken measures designed to save energy and limit the emissions of greenhouse gases linked to its activities;

- (f) it establishes and is able to provide records of its waste management **activities and import and export of waste shipment activities** for the last five years;
- (g) it has not been convicted of illegal activities linked to **import and export of waste shipment or waste management in the last five years.**

2. Upon verifying compliance of a facility against the above criteria, the independent third party performing the audit must in particular take into account, as a point of reference and where relevant:

- (a) specific requirements for the treatment of certain waste and on the calculation of the amount of waste treated, which are mandatory under EU legislation;
- (b) the Best Available Techniques conclusions adopted for certain activities under the regime of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions<sup>98</sup>.

3. In addition, the guidelines referred to in Part 2 of Annex IX may also be taken into consideration as guidance.

**Commented [SE 60]:** One MS wants to add after this last sentence:

**on this end, as a minimum, the actual performance of the facility, including the level of emissions, must be checked and compared with specific requirement which are mandatory in EU legislation and relevant BAT associated emission levels defined in EU under Directive 2010/75/UE.**

**The verification shall include a separate assessment for each relevant individual unit of a facility.**

<sup>98</sup> OJ L 334, 17.12.2010, p. 17.



**ANNEX XI**

**ADDITIONAL QUESTIONNAIRE FOR MEMBER STATES REPORTING  
OBLIGATION PURSUANT TO ARTICLE 69(2)**

<p><b>Amounts of wastes shipped from and into Member States not covered by the report according to Article 69(1)</b></p>	<p><b>Information on <del>quantities</del> amounts of wastes shipped from Member States, including exports, and <del>quantities</del> amounts of wastes shipped into Member States, including imports that are not to be reported according to Article 69(1)</b></p> <p>Have wastes been shipped from the Member State, including exports, that are not be reported according to Article 69(1)? Yes No (please tick <i>✓</i> as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 1bis.</p> <p>Have wastes been shipped into the Member State, including imports, that are not be reported according to Article 69(1)? Yes No (please tick <i>✓</i> as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 1ter.</p>
<p>Art. 11(2)</p>	<p><b>Information on consents given to a notification for a shipment of waste destined for disposal, where the conditions in Article 11(2) were fulfilled</b></p> <p>Has this provision been applied? Yes No (please tick <i>✓</i> as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, complete Table 1</p> <p>Additional remarks:</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
<p>Art. 12(5)(d)</p>	<p><b>Information on objections to planned shipments for recovery on the basis of them not being in accordance with <del>Directive 2008/98/EC</del> Article 12(1)(d)</b></p> <p>Has this provision been applied? Yes No (please tick <i>✓</i> as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 2.</p>
<p>Art. 12(1)(e)</p>	<p><b>Information on objections to planned shipments for recovery on the basis of them not being in accordance with Article 12(1)(e)</b></p> <p>Has this provision been applied? Yes No (please tick <i>✓</i> as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 2bis.</p>

**Commented [SE 1]:** One MS is of the opinion that amounts of wastes shipped from and into MS not covered by the report according to Article 69(1) should be covered by the reporting in the WSR. This is to also cover non-hazardous waste listed in Annex IV part 2 and non-hazardous waste and mixtures of waste listed in Annex III and IIIA, waste covered by entry EU48 etc.

The PRES notes that reporting of this kind of waste in the WSR is "optional" but that some MS already include this in their annual report, with this in mind the proposal might not add extra burden to the CA and would provide relevant data. This is therefore proposed to be added.

<p>Art. 14</p>	<p><b>Information on decisions by competent authorities to issue pre-consents for certain recovery facilities and on quantities of wastes shipped into the Member State, including imports consent to shipments to such facilities</b></p> <p>Has there been any case?      Yes      No  <i>(please tick ✓ as appropriate)</i>    <input type="checkbox"/>      <input type="checkbox"/></p> <p>If yes, please complete Tables 3.</p> <p><b>Have wastes been shipped into the Member State, including imports, to pre-consented recovery facilities?</b></p> <p>Yes      No  <i>(please tick ✓ as appropriate)</i>    <input type="checkbox"/>      <input type="checkbox"/></p> <p>If yes, please complete Table 4.</p>
<p>Art. 33</p>	<p><b>Information on the Member States' system for the supervision and control of shipments transports of waste within their territory</b></p> <p>Is there a system for the supervision and control of shipments transports of waste within the national territory?      Yes      No  <i>(please tick ✓ as appropriate)</i>    <input type="checkbox"/>      <input type="checkbox"/></p> <p>If there is such a system, do you apply the system provided for in Titles II and VII of the Regulation?      Yes      No  <i>(please tick ✓ as appropriate)</i>    <input type="checkbox"/>      <input type="checkbox"/></p> <p>If you apply a different system from that provided for in Titles II and VII of the Regulation, please give details of the system applied:</p> <p>-----  -----  -----  -----  -----</p>
<p>Art. 44</p>	<p><b>Information on the Member States' actions to verify that waste was only exported from the Union in case it is treated in an environmentally sound manner.</b></p> <p>Please give details on the regular verifications undertaken to ensure that natural and legal persons exporting waste from the Union comply with the obligations referred to in Article 40:</p> <p>-----  -----  -----  -----</p>

**Commented [Swe2]:** As proposed by one MS, quantities seems more relevant than number of consents. The PRES also thinks it's necessary to report information on the number of issued pre-consents.

**Commented [SE 3]:** Consequential change since Art 44(2) was deleted.

<p>Art. Art 24 and 60(1)</p>	<p><b>Information on illegal shipments of waste</b></p> <p>Has there been any case?      Yes      No</p> <p>(please tick <i>✓</i> as appropriate)    <input type="checkbox"/>      <input type="checkbox"/></p> <p>If yes, please complete Table 5</p> <p>Please, provide information on how illegal shipments of waste is prohibited and punished under national legislation.</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
<p>Art. 57(1)</p>	<p><b>Summary information on the outcome of the inspections carried out pursuant to Article 57(1), including:</b></p> <ul style="list-style-type: none"> <li>- number of inspections, including physical checks, of establishments, undertakings, brokers and dealers, related to shipments of waste:</li> <li>- <del>number of inspections of shipments of waste, including physical checks:</del></li> <li>- <b>number of inspections of audits for shipments of waste referred to in Art. 4(3) and (4):</b></li> <li>- number of supposed illegalities concerning establishments, undertakings, brokers and dealers, related to shipments of waste:</li> <li>- number of supposed illegal shipments ascertained during the inspections:</li> </ul> <p>Additional remarks:</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>

*Note for completion of the Tables:  
D and R codes are those referred to in Annexes I and II to Directive 2008/98/EC, as amended.*

*Waste identification codes are those referred to in Annexes III, IIIB, IV and the provisions of Article 7 of Directive 2008/98/EC -where relevant, V of this Regulation.*

*The link where the information made publicly available via the internet by Member States in accordance with Article 69(2) can be accessed electronically*

Table 1bis  
**Amounts quantities of wastes shipped from Member States, including exports, that are not be reported according to Article 69(1), in 20XX**

Waste identification code		Amount quantities shipped from a Member State, including exports (metric tons)	Country/ countries of transit <sup>(2)</sup>	Country of destination <sup>(2)</sup>	Disposal operation D code	Recovery operation R code
OECD Code or Code EU48 <sup>(1)</sup>	EU list of wastes Code					

(1) If applicable.  
 (2) Use 2 digits ISO codes.

Remarks:

Table 1ter  
**Annexes Quantities of wastes shipped into Member States, including imports, that are not be reported according to Article 69(1), in 20XX**

Waste identification code OECD Code or Code EU48 (1)	EU list of wastes Code	Amount Quantities shipped into a Member State, including imports (metric tons)	Country/ countries of transit (2)	Country of dispatch (2)	Disposal operation D code	Recovery operation R code

(1) If applicable.  
(2) Use 2 digits ISO codes.

Remarks:

**Table 1**  
**Information on consents given to a notification for a shipment of waste destined for disposal, where the conditions in Article 11(2) were fulfilled**

Waste <u>Identification-Code</u>	Quantity (kg/litres)	Country of dispatch/ Country of destination	Disposal Operation (Final disposal) D Code	Specific conditions in Article 11 that necessitated the shipment

Table 2  
 Information on objections to planned shipments for recovery based on them not being in accordance with Directive 2008/98/EC Article 12(15)(d)

Waste identification (code(s))	Quantity (kg/tonne stones (Mg))	Country of transit/ Country of destination	Reasons for the objection, including relevant national legislation Reasons for the objection (please tick the appropriate)				Recovery facility installation (final disposal)	
			Art. 12(1) (d)(i)	Art. 12(1) (d) (ii)	Art. 12(1) (d) (iii)	Art. 12(1) (d) (e)	Name (the case of art.12(4)(e)(iii))	Disposal Recovery Operation (DR-code)

**Table 2bis**  
**Information on objections to planned shipments for recovery based on them not being in accordance with Article 12(1)(e)**

Waste identification (code(s))	Quantity (tonnes (Mg))	Country of dispatch	Reasons for the objection	Recovery facility	
				Name	Recovery Operation R Code







