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A6-0287/2005

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**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a regulation of the European Parliament and of the Council on shipments of waste  
(15311/4/2004 – C6-0223/2005 – 2003/0139(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Johannes Blokland

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a regulation of the European Parliament and of the Council on shipments of waste  
(15311/4/2004 – C6-0223/2005 – 2003/0139(COD))

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (15311/4/2004 – C6-0223/2005),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2003)0379)<sup>2</sup>,
  - having regard to the amended Commission proposal (COM(2004)0172)<sup>3</sup>,
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 62 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0287/2005),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and Commission.

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Council common position

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Amendments by Parliament

Amendment 1  
Recital 5 a (new)

***(5a) The Community has signed the Stockholm Convention of 22 May 2001 on persistent organic pollutants.***

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<sup>1</sup> OJ C 87 E, 7.4.2004, p. 281.

<sup>2</sup> Not yet published in OJ.

<sup>3</sup> Not yet published in OJ.

### *Justification*

*Reinstates the Commission's original reference to the Stockholm Convention's on persistent organic pollutants (POP) whereby it is expressly illegal under the Stockholm Convention to allow such wastes to go to recovery, recycling, reclamation or direct reuse. It is necessary due to the possibility of misinterpretations of the EC regulation on POPs.*

### Amendment 2 Recital 9

(9) Shipments of waste generated by armed forces or relief organisations should be excluded from the scope of this Regulation when imported into the Community in certain situations (including transit within the Community when the waste enters the Community). The requirements of international law and international agreements should be respected in relation to such shipments. In cases *where the shipment transits a Member State on the way to recovery or disposal of the waste in the country of destination within the Community*, the competent authority of transit and the competent authority of destination should be informed in advance concerning the shipment and its destination.

(9) Shipments of waste generated by armed forces or relief organisations should be excluded from the scope of this Regulation when imported into the Community in certain situations (including transit within the Community when the waste enters the Community). 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 Community* should be informed in advance concerning the shipment and its destination.

### *Justification*

*The competent authority of destination in the Community should be informed in advance concerning the shipment and its destination, also in cases where the shipment does not transit a Member State (e. g. import into a Member State via an airport).*

### Amendment 3 Recital 19

(19) In the case of shipments of waste for disposal, *it should be possible for* Member States *to implement* the principles of proximity, priority for recovery and self-sufficiency at Community and national levels, in accordance with Council Directive

(19) In the case of shipments of waste for disposal, Member States *shall take into account* the principles of proximity, priority for *re-use*, recovery and self-sufficiency at Community and national levels, in accordance with Council Directive

75/442/EEC of 15 July 1975 on waste, by taking measures in accordance with the Treaty to prohibit generally or partially or to object systematically to such shipments. Account should also be taken of the requirement laid down in Directive 75/442/EEC, whereby Member States are to establish an integrated and adequate network of waste disposal installations, in order to enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste. Member States should also be able to ensure that the waste management facilities covered by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control 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 legally binding environmental protection standards in relation to disposal operations established in Community legislation.

75/442/EEC of 15 July 1975 on waste, by taking measures in accordance with the Treaty to prohibit generally or partially or to object systematically to such shipments. Account should also be taken of the requirement laid down in Directive 75/442/EEC, whereby Member States are to establish an integrated and adequate network of waste disposal installations, in order to enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste. Member States should also be able to ensure that the waste management facilities covered by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control 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 legally binding environmental protection standards in relation to disposal operations established in Community legislation.

#### *Justification*

*Re-use is gratuitously not mentioned in the document, however, should have priority as it is - in most of the cases - the most environmentally friendly means of waste-handling.*

#### Amendment 4 Recital 20

(20) In the case of shipments of waste destined for recovery, Member States ***should be able*** to ensure that the waste management facilities covered by Directive 96/61/EC apply best available techniques as defined 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 legally binding

(20) In the case of shipments of waste destined for recovery, ***it should be possible for Member States to implement the principles of self-sufficiency, proximity and priority for re-use and*** to ensure that the waste management facilities covered by Directive 96/61/EC apply best available techniques as defined in that Directive in compliance with the permit of the facility.

environmental protection standards in relation to recovery operations established in Community legislation and that, taking account of Article 7(3) of Directive 75/442/EEC, 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 Community legislation.

Member States should also be able to ensure that waste is treated in accordance with legally binding environmental protection standards in relation to recovery operations established in Community legislation and that, taking account of Article 7(3) of Directive 75/442/EEC, 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 Community legislation.

#### *Justification*

*The same as for amendment 3 on recital 19.*

#### Amendment 5 Recital 32 a (new)

***(32a) It is necessary to establish guidelines for determining when a ship or a vehicle becomes a waste pursuant to Article 1(a) of Directive 75/442/EEC in order to prevent circumvention of the objectives of this Regulation.***

#### *Justification*

*Re-introduces amendment 111 of EP first reading; to align with the rapporteur's proposed amendment to Article, paragraph 5a (new).*

*Ships are of a special nature in the context of waste. They are travelling around the world, and can therefore be declared a waste anywhere in the world. In order to avoid treatment costs due to environmentally sound disposal, the owner can simply have the ship do its last voyage to a third country with lower treatment standards, and only declare it a waste upon arrival. As such, ships that fulfil the definition of waste can circumvent waste legislation and hence the provisions of the waste shipment regulation. Guidelines are needed to close this loophole in waste legislation, all the more that there are many old ships awaiting scrapping, most of which contain significant quantities of hazardous substances or materials. A similar situation on a smaller scale applies for end of life vehicles.*



Amendment 6  
Article 1, paragraph 3, point (b)

(b) waste generated on board aeroplanes until such waste is offloaded in order to be recovered or disposed of;

(b) waste generated on board **vehicles, trains, aeroplanes and ships**, until such waste is offloaded in order to be recovered or disposed of;

*Justification*

*The exemption for waste generated on board aeroplanes should be extended to all kinds of transport because the requirements of the regulation would also be disproportionate concerning waste generated on board of vehicles other than aeroplanes.*

Amendment 7  
Article 1, paragraph 3, point (e)

(e) shipments of the waste referred to in point 1(b) of Article 2 of Directive 75/442/EEC, where such shipments are already covered by other Community legislation containing similar provisions;

(e) shipments of the waste referred to in point 1(b)**(ii), (iv) and (v)** of Article 2 of Directive 75/442/EEC, where such shipments are already covered by other Community legislation containing similar provisions;

*Justification*

*Avoidance of double provisions. Radioactive wastes (cf. Art. 2(1)(b)(i) of Directive 75/442/EC) are already excluded from the scope by Art. 1(3)(c) and animal by-products (inter alia animal carcasses and faecal matter etc., cf. Art. 2(1)(b)(iii) of Directive 75/442/EC) are already excluded by Art. 1(3)(d).*

Amendment 8  
Article 1, paragraph 3, point (g)

(g) imports into the Community of waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations where such waste is shipped, by the armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination. In cases **where the shipment transits a Member State on the**

(g) imports into the Community of waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations where such waste is shipped, by the armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination. In **such** cases, **any** competent authority of transit and the

**way to recovery or disposal of the waste in the country of destination, the** competent authority of transit and the competent authority of destination shall be informed in advance concerning the shipment and its destination.

competent authority of destination **in the Community** shall be informed in advance concerning the shipment and its destination.

*Justification*

*The competent authority of destination in the Community should be informed in advance concerning the shipment and its destination, also in cases where the shipment does not transit a Member State (e. g. import into a Member State via an airport).*

Amendment 9

Article 1, paragraph 5 a (new)

***5a. Within 18 months from the entry into force of this Regulation, the Commission shall establish guidelines to determine when a ship or a vehicle becomes waste pursuant to Article 1(a) of Directive 75/442/EEC, in accordance with the procedure referred to in Article 18 of that Directive.***

*Justification*

*Re-introduces amendment 112 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*Ships are of a special nature in the context of waste. They are travelling around the world, and can therefore be declared as waste anywhere in the world. In order to avoid treatment costs due to environmentally sound disposal, the owner can simply have the ship do its last trip to a third country with lower treatment standards, and only declare it as waste upon arrival. As such, ships that fulfil the definition of waste can circumvent waste legislation and hence the provisions of the waste shipment regulation. Guidelines are needed to close this loophole in waste legislation, all the more that there are many old ships awaiting scrapping, most of which contain significant quantities of hazardous substances or materials. A similar situation on a smaller scale applies for end-of-life vehicles.*

Amendment 10

Article 2, point (15), point (a) (iii)

(iii) a licensed 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

(iii) a licensed collector who, from various small quantities of the same type of waste **stream** collected from a variety of sources, has assembled the shipment which is to start from a single notified location, **or**

from a single notified location; or

*for wastes falling under Community producer responsibility legislation, such as Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)<sup>1</sup>:*

*(A) a licensed collector who, from various small quantities of the same type of waste stream collected from a variety of sources, has assembled the shipment, or*

*(B) the product producer, or*

*(C) any person contracted to arrange the collection and/or treatment of waste on behalf of the product producer; or*

<sup>1</sup> OJ L 37, 13.2.2003, p. 24.

#### *Justification*

*The substantive obligations for the proposed Regulation are imposed on the “notifier”. The definition should allow the producer of products covered by Community producer responsibility waste legislation, such as Directive 2002/96/EC on WEEE, or a third party acting on its behalf, to ship such waste in accordance with the respective Community producer responsibility legislation.*

#### Amendment 11 Article 2, point (22)

22) "country of dispatch" means any country from which a shipment of waste is planned to be initiated or is initiated;

22) "country of dispatch" means any country from which a shipment of waste is planned to be initiated or is initiated. ***In the case of waste ships or vessels, country of dispatch may also include port states, flag states, and/or states with jurisdiction over the owner or holder;***

#### *Justification*

*Clarity is needed concerning when a ship is finally dispatched as waste to avoid that ships are simply sailed to another port to avoid shipment regulations. This amendment reintroduces EP amendment 92 from first reading.*

#### Amendment 12 Title II, heading

SHIPMENTS **BETWEEN MEMBER STATES** WITHIN THE COMMUNITY **OR WITH** TRANSIT THROUGH THIRD COUNTRIES

SHIPMENTS WITHIN THE COMMUNITY **WITH OR WITHOUT** TRANSIT THROUGH THIRD COUNTRIES

*Justification*

*Consequential change to the amendment of Art. 1(2)(a). Clarification of the scope of Title II (it also covers shipments within Member States with transit through other Member States or third countries).*

Amendment 13

Article 3, paragraph 1, point (b)(i)

(i) wastes listed in Annex IV;

(i) wastes listed in Annex IV, **which includes wastes listed in Annexes II and VIII to the Basel Convention**;

*Justification*

*In order to clarify that for all hazardous wastes the notifications procedure applies, a reference to the Basle Convention lists for hazardous wastes is added in this article. This can already be read in Annex IV, Part I which refers to these two Basle Convention lists.*

Amendment 14

Article 3, paragraph 2, introductory part

2. Shipments of the following wastes destined for recovery shall be subject to the general **requirement of being accompanied by certain information as** laid down in Article 18:

2. Shipments of the following wastes destined for recovery shall be subject to the general **requirements** laid down in Article 18, **if the amount of waste shipped exceeds 20 kg**:

*Justification*

*The requirements to conclude a contract and that waste referred to in Art.3(2) is accompanied by the document contained in Annex VII is disproportionate for small quantities of shipped waste. Such small quantities may be sent by post, including in cases of take back systems, or may be carried along with persons crossing borders (e.g. waste packaging or a waste newspaper). If current voluntary take back systems set up by product producers are to be maintained, it is not practical to impose these obligations on consumers returning waste products for recovery.*

Amendment 15  
Article 3, paragraph 4

4. Shipments of waste explicitly destined for laboratory analysis to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall not be subject to the procedure of prior written notification and consent as described in paragraph 1. Instead, the procedural requirements of Article 18 shall apply. The amount of such waste exempted when explicitly destined for laboratory analysis shall be determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and shall not exceed 25 kg.

4. Shipments of waste explicitly destined for ***research purposes or for*** laboratory analysis to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall not be subject to the procedure of prior written notification and consent as described in paragraph 1. Instead, the procedural requirements of Article 18 shall apply. The amount of such waste exempted when explicitly destined for ***research purposes or for*** laboratory analysis shall be determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and shall not exceed 25 kg.

*Justification*

*Dispensation from the notification obligation should also apply to recovery and disposal measures in the research and development framework, and hence to cross-border shipments of waste for technical experiments.*

Amendment 16  
Article 5, paragraph 1 a (new)

***1a. In the case of a voluntary product return programme established by a product producer for the return and recovery of its products once discarded by end users, the contract referred to in paragraph 1 may be a contract between the product producer, or its authorised contractor, and the consignee, and the obligations imposed by Article 6 (Financial guarantee) may be fulfilled by the product producer or its authorised contractor.***

*Justification*

*This amendment is directed at preserving voluntary collection and recycling initiatives set up by product producers in order to divert wastes from landfill. For such voluntary programmes*

*to be implemented, it must be clear that the obligation imposed on the notifier of the shipment as respects the financial guarantee and to conclude a contract with the consignee also can be fulfilled in these cases by the product producer.*

Amendment 17  
Article 5, paragraph 3, point (c)

(c) on **the consignee or** the facility to provide, in accordance with Article 16(e), 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.

(c) on the facility to provide, in accordance with Article 16(e), 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.

*Justification*

*Consequential change to ensure internal consistency. Pursuant to Art. 6(9) of the Basel Convention and the OECD Decision, only the facility (and not the consignee) shall confirm the receipt of the waste and, later on, certify that the recovery or disposal has been completed. In particular the movement document in Annex IB (Box 17 and 18) and also Art. 15(c) and (e) reflect this.*

Amendment 18  
Article 5, paragraph 4

4. If the waste shipped is destined for interim recovery or disposal operations, the contract shall include the following additional obligations **on the consignee or the facility of destination**:

(a) the obligation to provide, in accordance with Article 15(d) and, where appropriate, Article 15(e), the certificates 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; and

(b) the obligation to submit, where applicable, a notification to the initial competent authority of the initial country of dispatch in accordance with Article 15(f)(ii).

4. If the waste shipped is destined for interim recovery or disposal operations, the contract shall include the following additional obligations:

(a) the obligation **on the facility of destination** to provide, in accordance with Article 15(d) and, where appropriate, Article 15(e), the certificates 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; and

(b) the obligation **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(f)(ii).

### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

#### Amendment 19

##### Article 6, paragraph 5, subparagraph 2

The financial guarantee or equivalent insurance shall be released when the ***notifier provides proof that the waste has reached its destination and has been recovered or disposed of in an environmentally sound manner. Such proof shall be provided by means of*** the certificate referred to in Article 16(e) or, where appropriate, in Article 15(e) as regards interim recovery or disposal operations.

The financial guarantee or equivalent insurance shall be released when the ***competent authority concerned has received*** the certificate referred to in Article 16(e) or, where appropriate, in Article 15(e) as regards interim recovery or disposal operations.

### *Justification*

*According to Art. 15 and 16, the facility (and not the notifier) shall certify that the recovery or disposal has been completed and shall send the movement document containing this certification to the notifier and the competent authorities concerned. According to Art. 21(8), 23(6), 34(3)(f)(i) and 37(3)(f)(i), the issuing of this certification leads to the release of the financial guarantee. For internal consistency, this should also be the case in Art. 6(5), (6) and (8).*

#### Amendment 20

##### Article 6, paragraph 6

6. By way of derogation from paragraph 5, if the waste shipped is destined for interim recovery or disposal operations and a further recovery or disposal operation takes place in the country of destination, the financial guarantee or equivalent insurance may be released when the waste leaves the interim facility and the ***notifier provides proof that the interim operation is completed. Such proof shall be provided by means of*** the certificate referred to in Article 15(d). In this case, any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance

6. By way of derogation from paragraph 5, if the waste shipped is destined for interim recovery or disposal operations and a further recovery or disposal operation takes place in the country of destination, the financial guarantee or equivalent insurance may be released when the waste leaves the interim facility and the ***competent authority concerned has received*** the certificate referred to in Article 15(d). In this case, any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance unless the competent authority of destination is

unless the competent authority of destination is satisfied that such a financial guarantee or equivalent insurance is not required. In these circumstances, the competent authority of destination shall be responsible for obligations arising in the case of an illegal shipment or for take-back where the shipment or the further recovery or disposal operation cannot be completed as intended.

satisfied that such a financial guarantee or equivalent insurance is not required. In these circumstances, the competent authority of destination shall be responsible for obligations arising in the case of an illegal shipment or for take-back where the shipment or the further recovery or disposal operation cannot be completed as intended.

#### *Justification*

*According to Art. 15 and 16, the facility (and not the notifier) shall certify that the recovery or disposal has been completed and shall send the movement document containing this certification to the notifier and the competent authorities concerned. According to Art. 21(8), 23(6), 34(3)(f)(i) and 37(3)(f)(i), the issuing of this certification leads to the release of the financial guarantee. For internal consistency, this should also be the case in Art. 6(5), (6) and (8).*

#### Amendment 21

##### Article 6, paragraph 8, subparagraph 2

The financial guarantee or equivalent insurance shall be released when the ***notifier provides proof that*** the relevant waste ***has reached its destination and has been recovered or disposed of in an environmentally sound manner.*** Paragraph 5, second subparagraph, second sentence, and paragraph 6 shall apply mutatis mutandis.

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

#### *Justification*

*According to Art. 15 and 16, the facility (and not the notifier) shall certify that the recovery or disposal has been completed and shall send the movement document containing this certification to the notifier and the competent authorities concerned. According to Art. 21(8), 23(6), 34(3)(f)(i) and 37(3)(f)(i), the issuing of this certification leads to the release of the financial guarantee. For internal consistency, this should also be the case in Art. 6(5), (6) and (8).*

#### Amendment 22

##### Article 9, paragraph 7



7. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year from the receipt of the waste by the **consignee**, unless a shorter period is indicated by the competent authorities concerned.

7. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year from the receipt of the waste by the **facility**, unless a shorter period is indicated by the competent authorities concerned.

#### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

#### Amendment 23 Article 9, paragraph 9 a (new)

***9a. The consignee shall be informed by the competent authority of dispatch of the transmission of the notification in line with Article 7(1) and shall receive an acknowledgement from the competent authority of destination in line with Article 8(2) and a copy of the decision from the competent authorities in line with Article 9(2).***

#### *Justification*

*It is imperative that the consignee of waste is informed of progress in the notification process, as is the case under the current Regulation on the shipment of waste, as the consignee has already signed a contract with the notifier on the treatment of waste and important developments could take place that might affect its shipment, e.g. the shutdown of a facility or full capacity utilisation.*

#### Amendment 24 Article 10, paragraph 4 a (new)

***4a. The facility that receives the waste shall keep incoming and outgoing volume records for each specific treatment line and for each sub-section of each treatment line.***

### *Justification*

*Re-introduces amendment 32 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*With a view to ensuring that as much waste as possible is actually recovered, each facility should keep such records.*

### Amendment 25

Article 10, paragraph 4 b (new)

***4b. The authorities of dispatch or destination may require the receiving plant to issue a regular (e.g. monthly) input/output balance of the specific treatment line, which must be signed by the person legally responsible for the plant and sent within one month to the relevant authorities.***

***The input/output balance must quantify all incoming and outgoing streams of the specific treatment line so that the authority can verify compliance with the original aim of the notification and oppose any further shipment in case of any discrepancy.***

### *Justification*

*Re-introduces amendment 33 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*The aim is to require information to be supplied so as to enable the competent authorities to carry out effective checks on waste flows and the methods used to treat the waste, on the basis of the authorisations issued.*

### Amendment 26

Article 11, paragraph 1, point (d)

(d) that the notifier or the ***consignee*** has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or

(d) that the notifier or the ***facility*** has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 27

Article 11, paragraph 1, point (g) (i)

(i) in order to implement the principle of self-sufficiency at **Community and national levels**; or

(i) in order to implement the principle of self-sufficiency at national **level**; or

*Justification*

*Re-introduces amendment 37 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*To date, there has been no Community action to bring about an adequate, integrated network of disposal facilities with a view to Community self-sufficiency, i.e. nothing has been done, to date, about self-sufficiency at Community level. Relevant action has been taken only in Member States (and not in every one). It is therefore not sensible to cite self-sufficiency as an argument when, in reality, there is no such thing.*

Amendment 28

Article 11, paragraph 1, point (h a) (new)

**(ha) that the waste is mixed municipal waste from private households (heading 20 03 01); or**

*Justification*

*Re-introduces amendment 80 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004.)*

*Waste from private households should not be transported more than absolutely necessary. Member States should take over responsibility for this inhomogeneous waste and be encouraged to solve their household waste problems self-sufficiently according to article 5 of the Waste Framework Directive 75/442/EEG. Thus, they need to have the **possibility** to object to the shipment of household waste following the provisions for waste for disposal. This is in line with article 3(5) and does not exclude co-operation with neighbour countries, of course.*

Amendment 29

Article 11, paragraph 2

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections based only on paragraph 1(b), (c) and (f).

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections based only on paragraph 1(b), (c), **(d)** and (f).

*Justification*

*The competent authorities of transit in the Community should also be able to raise objections if the notifier or the consignee has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments. This is of particular importance in cases where shipments of waste are in transit through the Community.*

Amendment 30  
Article 11, paragraph 5

5. If the problems giving rise to the objections have not been resolved within the 30-day time limit referred to in paragraph 1, the notification 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. If the problems giving rise to the objections have not been resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted.

*Justification*

*Re-introduces amendment 40 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*Clarity is best served by a new notification. It is therefore not sensible to depart from this where problems have not been resolved.*

Amendment 31  
Article 12, paragraph 1, point (c) (iii)

***(iii) the national legislation in the country of dispatch, other than that covered by (i), has not been notified in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the***

***deleted***

*provision of information in the field of technical standards and regulations and of rules on Information Society services <sup>1</sup>, where required by that Directive; or*

Amendment 32  
Article 12, paragraph 1, point (e)

(e) that the notifier or the **consignee** has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or

(e) that the notifier or the **facility** has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 33  
Article 12, paragraph 1, point (h a) (new)

***(ha) that the waste is mixed municipal waste from private households (heading 20 03 01); or***

*Justification*

*Re-introduces amendment 81 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*Waste from private households should not be transported more than absolutely necessary. Member States should take over responsibility for this inhomogeneous waste and be encouraged to solve their household waste problems self-sufficiently according to article 5 of the Waste Framework Directive 75/442/EEC. Thus, they need to have the **possibility** to object to the shipment of household waste following the provisions for waste for disposal. This is in line with article 3(5) and does not exclude co-operation with neighbour countries, of course.*

Amendment 34  
Article 12, paragraph 1, point (k)

***(k) that the waste concerned will not be treated in accordance with waste***

***deleted***

***management plans drawn up pursuant to Article 7 of Directive 75/442/EEC with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Community legislation.***

*Justification*

*Article 7 of Directive 75/442/EC stipulates an obligation for Member States to draw up waste management plans for the disposal of waste. As far as recovery is concerned, it is necessary to take all recovery treatment options within the EC into account, in order to avoid dysfunctions of the European internal market and to ensure access to European companies using waste for recovery. Ensuring a properly functioning internal market for the recovery of waste allows for optimising recovery operations and minimising the environmental impact of waste production and treatment.*

*The implications of this article could be that each Member State would need to be self sufficient in treating waste for recovery. This would result in multiple creations of expensive but under-utilised infrastructures without any networking potential within the internal market.*

*A correct application of the waste shipment regulation requires that objection possibilities should be based for all the countries on the same European concepts and reference Regulations.*

Amendment 35

Article 12, paragraph 1 a (new)

***1a. The objections referred to under paragraph 1(c) and (g) may only be raised until the entry into force of specific Community legislation and no later than four years following the entry into force of this Regulation.***

*Justification*

*The recovery criteria under paragraph 1(g) require a basic legal clarification. This should be carried out in the course of a revision of the Waste Framework Directive (Directive 75/442/EEC), amended by Directive 91/156/EEC). A time limit should therefore be placed on this ground for objection.*

*Article 12(1)(c) constitutes a departure from the principle of the internal market, which is not justified by specific environmental or public health requirements. This would lead to the*

*renationalisation of waste disposal. Although under the common position, the objection cannot in principle be raised in connection with Community legislation, in particular on waste, there is a danger that in the event of a delayed or incomplete introduction of European requirements relating to waste and recycled raw materials Article 12(1)(c) would lead to a lasting deviation from the principle of the internal market. For this reason, a time limit should be placed on this ground for objection.*

Amendment 36  
Article 12, paragraph 2

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections to the planned shipment based only on paragraph 1(b), (d) and (f).

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections to the planned shipment based only on paragraph 1(b), (d), **(e)** and (f).

*Justification*

*The competent authorities of transit in the Community should also be able to raise objections if the notifier or the consignee has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments. This is of particular importance in cases where shipments of waste are in transit through the Community.*

Amendment 37  
Article 12, paragraph 4

4. If the problems giving rise to the objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification 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.***

4. If the problems giving rise to the objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted.

*Justification*

*Re-introduces amendment 50 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*Clarity is best served by a new notification. It is therefore not sensible to depart from this where problems have not been resolved.*

Amendment 38  
Article 13, paragraph 1, point (a)

(a) the waste has essentially similar physical and chemical characteristics;

(a) the waste has essentially similar physical and chemical characteristics; **and**

*Justification*

*Introduces the word 'and', which was forgotten, in order to clarify that all three criteria should be met for a general notification.*

Amendment 39  
Article 13, paragraph 1 a (new)

***1a. As part of a general notification procedure, a single notification may cover more than one shipment of waste over a period not exceeding one calendar year. By arrangement with the competent authorities concerned, the period indicated may be shortened.***

***For the other periods in connection with a general notification procedure, the periods under Article 9 shall apply.***

*Justification*

*Re-introduces amendment 51 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*In Regulation 253/93, the maximum period of validity of notifications is set at one year. That should continue to apply in this regulation.*

*For the sake of clarity, it is appropriate to indicate that, for general notifications, no other periods may be used (such as the period within which objections may be raised or the period after which a consent expires).*

Amendment 40  
Article 13, paragraph 3

3. The competent authorities concerned may make their agreement to the use of a general notification **procedure** subject to the subsequent provision of additional information and documentation, in accordance with the second subparagraph,

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 the second subparagraph, points 2 and 3 of



points 2 and 3 of Article 4.

Article 4.

*Justification*

*Alignment to Articles 4, 6(8), 13(1) and (2), 14(2) and 16, where the term “general notification” is used. There is no “general notification procedure”.*

Amendment 41

Article 15, paragraph 1, point (d), subparagraph 1

(d) As soon as possible, but no later than 30 days after completion of the interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, ***the consignee or*** the facility carrying out this operation shall, under its responsibility, certify that the interim recovery or disposal has been completed.

(d) As soon as possible, but no later than 30 days after completion of the interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, the facility carrying out this operation shall, under its responsibility, certify that the interim recovery or disposal has been completed.

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 42

Article 16, paragraph 1, point (c)

(c) Documents to accompany each transport: the notifier shall retain a copy of the movement document. The movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned shall accompany each transport. The movement document shall be retained by the ***consignee***.

(c) Documents to accompany each transport: the notifier shall retain a copy of the movement document. The movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned shall accompany each transport. The movement document shall be retained by the ***facility which receives the waste***.

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 43  
Article 16, paragraph 1, point (d)

(d) Written confirmation of receipt of the waste by the **consignee**: within three days of the receipt of the waste, the **consignee** shall provide confirmation in writing that the waste has been received.

This confirmation shall be contained in, or annexed to, the movement document.

The **consignee** shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.

(d) Written confirmation of receipt of the waste by the **facility**: within three days of the receipt of the waste, the **facility** shall provide confirmation in writing that the waste has been received.

This confirmation shall be contained in, or annexed to, the movement document.

The **facility** shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 44  
Article 16, paragraph 1, point (e)

(e) Certificate for non-interim recovery or disposal by the **consignee**: as soon as possible, but no later than 30 days after completion of the non-interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, **the consignee or the facility** carrying out the operation shall, under its responsibility, certify that the non-interim recovery or disposal has been completed.

This certificate shall be contained in, or

(e) Certificate for non-interim recovery or disposal by the **facility**: as soon as possible, but no later than 30 days after completion of the non-interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, the **facility** carrying out the operation shall, under its responsibility, certify that the non-interim recovery or disposal has been completed.

This certificate shall be contained in, or

annexed to, the movement document.

The *consignee* shall send signed copies of the movement document containing this certificate to the notifier and to the competent authorities concerned.

annexed to, the movement document.

The *facility* shall send signed copies of the movement document containing this certificate to the notifier and to the competent authorities concerned.

#### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

#### Amendment 45

##### Article 18, paragraph 1, introductory part

1. Waste as referred to in Article 3(2) and (4) that is intended to be shipped **from one Member State to another Member State and/or to pass in transit through one or more other Member States** shall be subject to the following procedural requirements:

1. Waste as referred to in Article 3(2) and (4) that is intended to be shipped shall be subject to the following procedural requirements:

#### *Justification*

*Deletion of superfluous text. From the scope in Art. 1(2) and the definition of shipment in Art. 2(34) it is clear which shipments are covered by Art. 18(1). Such text is also not included in Art. 3(1) or the first subparagraph of Art. 4 as regards the procedure of prior written notification and consent.*

#### Amendment 46

##### Article 18, paragraph 4

4. The information referred to in paragraph 1 **shall be treated confidentially** in accordance with Community and national legislation.

4. The information referred to in paragraph 1 **may be subject to confidentiality requirements** in accordance with Community and national legislation.

#### *Justification*

*The Council has a strong confidentiality text than is necessary. Information gathered by member states regarding waste trafficking should not, in all instances or in all parts, be*

*considered as confidential.*

Amendment 47  
Article 20, paragraph 1

1. All documents sent to or by the competent authorities in relation to a notified shipment shall be kept in the Community for at least three years from the date when the shipment starts, by the competent authorities, the notifier **and** the consignee.

1. All documents sent to or by the competent authorities in relation to a notified shipment shall be kept in the Community for at least three years from the date when the shipment starts, by the competent authorities, the notifier, the consignee **and the facility which receives the waste.**

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 48  
Article 20, paragraph 2

2. Information given pursuant to Article 18(1) shall be kept in the Community for at least three years from the date when the shipment starts, by the person who arranges for the shipment **and** the consignee.

2. Information given pursuant to Article 18(1) shall be kept in the Community for at least three 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.**

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 49  
Article 21, paragraph 8

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 **consignee** issues the certificate of non-interim recovery or disposal as referred to in Article 16(e) or, where appropriate, in Article 15(e). In the cases of interim recovery or disposal referred to in Article

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 as referred to in Article 16(e) or, where appropriate, in Article 15(e). In the cases of interim recovery or disposal referred to in Article

6(6), the subsidiary obligation of the country of dispatch shall end when the **consignee** issues the certificate referred to in Article 15(d).

If a **consignee** issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, Article 23(3) and Article 24(2) shall apply.

6(6), the subsidiary obligation of the country of dispatch shall end when the **facility** issues the certificate referred to in Article 15(d).

If a **facility** issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, Article 23(3) and Article 24(2) shall apply.

### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

### Amendment 50 Article 23, paragraph 6

6. In the cases of interim recovery or disposal referred to in Article 6(6) where an illegal shipment is discovered after completion of the interim recovery or 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 **consignee** has issued the certificate referred to in Article 15(d).

If a **consignee** issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 3 and Article 24(2) shall apply.

6. In the cases of interim recovery or disposal referred to in Article 6(6) where an illegal shipment is discovered after completion of the interim recovery or 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(d).

If a **facility** issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 3 and Article 24(2) shall apply.

### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 51  
Article 25, paragraph 4

4. Subject to the agreement of the competent authorities concerned **and of the notifier**, the information and documents listed in paragraph 1 may be submitted and exchanged by means of electronic data interchange with electronic signature or electronic authentication in accordance with Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures, or a comparable electronic authentication system which provides the same level of security. In such cases, organisational arrangements concerning the flow of electronic data interchange may be made.

4. Subject to the agreement of the competent authorities concerned, the information and documents listed in paragraph 1 may be submitted and exchanged by means of electronic data interchange with electronic signature or electronic authentication in accordance with Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures, or a comparable electronic authentication system which provides the same level of security. In such cases, organisational arrangements concerning the flow of electronic data interchange, **in particular as regards the forms of delivery**, may be made.

*Justification*

*An electronic system is introduced in order to increase administrative efficiency and simplify the notification process. A notification system operating by means of electronic data interchange can be guaranteed to work only if it is set up for all participants without exception.*

*The flow of electronic data interchange requires the establishment and observance of - standardised or agreed - organisational and technical requirements. It can be necessary, for reasons of efficiency, technical feasibility and cost, to modify planned operations (as specified under the EUDIN project – European Data Interchange for Waste Notification Systems - among Germany, the Netherlands, Belgium and Austria). The insertion in the text is for clarification purposes.*

Amendment 52  
Article 27, paragraph 1

1. If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the subject matter shall be treated as if it were waste. ***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***

1. If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the subject matter shall be treated as if it were waste.

***arrival of the shipped material and where such legislation is in accordance with Community or international law.***

*Justification*

*Reintroduces the text of the Commission proposal by deleting the misleading addition.*

Amendment 53  
Article 30, introductory part

Where a shipment of waste takes place within the Community, ***including shipments between localities in the same Member State***, with transit via one or more third countries, and the waste is destined for disposal, the competent authority of dispatch shall, in addition to the provisions of this Title, ask the competent authority in the third countries whether it wishes to send its written consent to the planned shipment:

Where a shipment of waste takes place within the Community with transit via one or more third countries, and the waste is destined for disposal, the competent authority of dispatch shall, in addition to the provisions of this Title, ask the competent authority in the third countries whether it wishes to send its written consent to the planned shipment:

*Justification*

*Deletion of superfluous text. From the scope in Art. 1(2)(a) and (aa) new as well as the definition of shipment in Art. 2(34) it is clear that also shipments between localities in the same Member State with transit via one or more third countries are covered by Art. 30. Such text is also not included in Chapter I of Title II, e.g. the first subparagraph of Art. 4.*

Amendment 54  
Article 30, paragraph 1 a (new)

***This Article is without prejudice to the provisions contained in Chapter 2 of this Title.***

*Justification*

*Re-introduces the text of the European Commission.*

Amendment 55  
Article 31, paragraph 1

1. When a shipment of waste takes place within the Community, ***including shipments between localities in the same Member***

1. When a shipment of waste takes place within the Community with transit via one or more third countries to which the

**State**, with transit via one or more third countries to which the OECD Decision does not apply, and the waste is destined for recovery, Article 30 shall apply.

OECD Decision does not apply, and the waste is destined for recovery, Article 30 shall apply.

*Justification*

*Deletion of superfluous text.*

Amendment 56  
Article 31, paragraph 2 a (new)

***2a. This Article is without prejudice to the provisions contained in Chapter 2 of this Title.***

*Justification*

*Re-introduces the text of the European Commission.*

Amendment 57  
Article 34, paragraph 3, point (e)

(e) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the **consignee** about receipt of the waste, it shall without delay inform the competent authority of destination; and

(e) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the **facility** about receipt of the waste, it shall without delay inform the competent authority of destination; and

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 58  
Article 34, paragraph 3, point (f)

(f) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:

(f) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:

(i) if a **consignee** issues an incorrect

(i) if a **facility** issues an incorrect certificate



certificate of disposal with the consequence that the financial guarantee is released, **he/she** 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) within three days of receipt of the waste for disposal, the **consignee** shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint (iii), to the notifier and the competent authorities concerned; and

(iii) as soon as possible but no later than 30 days after completion of disposal, and no later than one calendar year following the receipt of the waste the **consignee** shall, under **his/her** responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.

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) within three days of receipt of the waste for disposal, the **facility** shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint (iii), to the notifier and the competent authorities concerned; and

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

#### *Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

#### Amendment 59

#### Article 37, paragraph 3, point (d)

(d) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the **consignee** about receipt of the waste, it shall without delay inform the competent authority of destination; and

(d) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the **facility** about receipt of the waste, it shall without delay inform the competent authority of destination; and

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 60  
Article 37, paragraph 3, point (e)

(e) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:

(i) if a **consignee** issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, **he/she** 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) within three **working** days of receipt of the waste for recovery, the **consignee** shall send signed copies of the completed movement document, except for the certificate of recovery referred to in subpoint (iii), to the notifier and the competent authorities concerned; and

(iii) as soon as possible but no later than 30 days after completion of recovery, and no later than one calendar year following the receipt of the waste the **consignee** shall, under **his/her** responsibility, certify that the recovery has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.

(e) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:

(i) if 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) within three days of receipt of the waste for disposal, the **facility** shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint (iii), to the notifier and the competent authorities concerned; and

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

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).) Alignment to Articles 15(c), 16(d) and 34(3)(f)(ii).*

Amendment 61  
Article 46, paragraph 1, point (b)

(b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a copy of the movement document to the competent authority(ies) of transit in the Community, stating that the waste has left the Community.

(b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a **stamped** copy of the movement document to the competent authority(ies) of transit in the Community, stating that the waste has left the Community.

*Justification*

*Alignment to Articles 34(3)(d), 37(3)(c) and 41(3)(d).*

Amendment 62  
Article 47, paragraph 2, point (b)

(b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a copy of the movement document to the competent **authority** of transit in the Community, stating that the waste has left the Community.

(b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a **stamped** copy of the movement document to the competent **authority(ies)** of transit in the Community, stating that the waste has left the Community.

*Justification*

*Alignment to Articles 34(3)(d), 37(3)(c), 41(3)(d) and 46(b).*

Amendment 63  
Article 49, paragraph 2

2. Member States **may**, by way of measures for the enforcement of this Regulation, provide inter alia for inspections of establishments and undertakings in accordance with Article 13 of Directive 75/442/EEC, and for spot checks

2. Member States **shall**, by way of measures for the enforcement of this Regulation, provide inter alia for inspections of establishments and undertakings in accordance with Article 13 of Directive 75/442/EEC, and for spot checks on

on shipments of waste or on the related recovery or disposal.

shipments of waste or on the related recovery or disposal.

*Justification*

*The core problem of this regulation is the proper enforcement. That is why the text needs to be strengthened.*

Amendment 64  
Article 49, paragraph 3, point (b)

(b) at the destination, carried out with the consignee;

(b) at the destination, carried out with the consignee **or the facility**;

*Justification*

*Consequential change to ensure internal consistency. (See justification to Article 5, paragraph 3, point (c).)*

Amendment 65  
Article 49, paragraph 4

4. Checks **may** include the inspection of documents, the confirmation of identity and, where appropriate, physical checking of the waste.

4. Checks **on shipments shall** include the inspection of documents, the confirmation of identity and, where appropriate, physical checking of the waste. **Member States shall carry out checking in at least 3% of the shipments on their territory.**

*Justification*

*It is essential to introduce at least 3 % obligatory checking for shipments as it is the only way to maintain the legal strictness, as waste shipment is an environmentally hazardous operation.*

Amendment 66  
Article 49, paragraph 5

5. Member States **may** cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments.

5. Member States **shall** cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments. **In order**

***to support coordination on enforcement, Member States shall ensure that a common enforcement platform with permanent staff is set up and provision is made to support regular physical checking actions on actual shipments and two-yearly reporting on the results of such checks.***

*Justification*

*The IMPEL–SEAPORT project evidence shows the usefulness of regular spot-checking actions/raids on containers in ports on shipments to strengthen enforcement. The IMPEL study on "verification" of waste destinations is virtually completed. One study on enforcing the regulation at seaports has been published:*

*[http://europa.eu.int/comm/environment/impel/pdf/impel\\_tfs\\_seaportprojectjune2004.pdf](http://europa.eu.int/comm/environment/impel/pdf/impel_tfs_seaportprojectjune2004.pdf).*

*This concludes that "violations and irregularities" of the rules at ports are commonplace. It identifies big geographical variations in approaches to enforcement and serious information gaps on the part of enforcers. Improvements are needed.*

Amendment 67  
Article 49 a (new)

***Article 49a***

***Public access to notifications***

***The competent authority of the exporting or importing Member State shall make publicly available by appropriate means, such as the Internet, all non-confidential information (in accordance with Community and national legislation) submitted in relation to notifications of shipments it has received, or consented to, letters of consent, and all related documents, 30 days after having received such notifications or at the latest 7 days after consent was given.***

*Justification*

*Information regarding waste shipments should be accessible and notifications should be made publicly available in all Member States to be able to track sham recovery. This idea is consistent with the Aarhus Convention as well as the Directive on the freedom and access to*

*information on the environment. If some material is deemed to be confidential based on Community or national legislation, then that can be held back. Notifications are already published in the Netherlands and in Finland.*

*Re-introduces amendment 66 adopted in first reading, which was also incorporated in the amended proposal of the European Commission (COM(2004)172), adapted to address data confidentiality issues.*

Amendment 68

Article 50, paragraph 4, subparagraph 1 a (new)

***To this end the Commission may request additional information in accordance with Article 6 of Directive 91/692/EEC.***

*Justification*

*Re-introduces the text of the European Commission.*

Amendment 69

Article 56

The Commission shall, if requested by Member States or if otherwise appropriate, periodically hold a meeting of the correspondents to examine the questions raised by the implementation of this Regulation.

The Commission shall, if requested by Member States or if otherwise appropriate, periodically hold a meeting of the correspondents to examine the questions raised by the implementation of this Regulation. ***Relevant non-governmental organisations should be invited to such meetings.***

*Justification*

*New amendment adding the opportunity for non-governmental organisations to participate in meetings organised by the Commission at the demand of member states between correspondents.*

Amendment 70

Article 61, paragraph 1 a (new)

***1a. Any shipment for which the competent authorities concerned have given their consent pursuant to Regulation (EEC) No 259/93 shall be completed not later than one year from the date of application of this Regulation.***

*Justification*

*Re-introduces the text of the European Commission.*

Amendment 71  
Article 62, paragraph 1

***1. Until 30 June 2005, all shipments to Hungary of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes shall be subject to the procedure of prior written notification and consent in accordance with Title II.*** ***deleted***

***By way of derogation from Article 12, the competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste and Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants during the period in which the temporary derogation is applied to the facility of destination.***

*Justification*

*Paragraph 1 should be deleted since the expiry date for the transitional arrangements for Hungary has expired.*

Amendment 72  
Article 62, paragraph 3

**3. Until 31 December 2005, all shipments to Malta of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes shall be subject to the procedure of prior written notification and consent in accordance with Title II.** *deleted*

*By way of derogation from Article 12, the competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 2001/80/EC during the period in which the temporary derogation is applied to the facility of destination.*

*Justification*

*Paragraph 3 should be deleted since the expiry date for the transitional arrangements for Malta will have expired by the date of application of the Regulation.*

Amendment 73

Article 62, paragraph 4, subparagraph 2, row 26

**A4030**

**A4010**

*Justification*

*In paragraph 4 referring to Poland, waste entry AD010 contained in the Accession Treaty corresponds to entry A4010 in Annex VIII of the Basel Convention, not to entry A4030 (which corresponds to entry AD020), which should be corrected.*

Amendment 74

Article 62, paragraph 5 a (new)

**5a. Until 31 December 2014, all shipments to Bulgaria of waste for recovery listed in Annex III shall be subject to the procedure of prior written notification and consent in accordance with Title II.**



*By way of derogation from Article 12, until 31 December 2009, the Bulgarian competent authorities may raise objections to shipments to Bulgaria for recovery of the following waste listed in Annexes III and IV in conformity with the grounds for objection laid down in Article 11:*

*B2070*

*B2080*

*B2100*

*B2120*

*Y46*

*Y47*

*A1010 and A1030 (only the indents referring to arsenic and mercury)*

*A1060*

*A1140*

*A2010*

*A2020*

*A2030*

*A2040*

*A3030*

*A3040*

*A3070*

*A3120*

*A3130*

*A3160*

*A3170*

*A3180 (applies only in respect of polychlorinated naphthalenes (PCN))*

*A4010*

*A4050*

*A4060*

*A4070*

*A4090*

*AB030*

***AB070***

***AB120***

***AB130***

***AB150***

***AC060***

***AC070***

***AC080***

***AC150***

***AC160***

***AC260***

***AD150***

***This period may be extended until no later than 31 December 2012 in accordance with the procedure referred to in Article 18(2) of Directive 75/442/EEC.***

***By way of derogation from Article 12, until 31 December 2009, the Bulgarian competent authorities may raise objections in conformity with the grounds for objection laid down in Article 11 to shipments to Bulgaria of:***

***(a) the following waste for recovery listed in Annex IV:***

***A2050***

***A3030***

***A3180, except polychlorinated naphthalenes (PCN)***

***A3190***

***A4110***

***A4120***

***RB020***

***and of***

***(b) waste for recovery not listed in the Annexes.***

***By way of derogation from Article 12, the Bulgarian competent authorities shall object to shipments of waste for recovery***

***listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC or Directive 2001/80/EC during the period in which the temporary derogation is applied to the facility of destination.***

*Justification*

*Paragraphs 5a and 5b (new) introduce the text of the Accession Treaties for Bulgaria and Romania into the Regulation as has been done in paragraphs 1 to 5 for Hungary, Latvia, Malta, Poland and Slovakia. In particular a number of waste entries have to be replaced by the appropriate entries listed in Annexes III and IV as has been done for Poland.*

Amendment 75

Article 62, paragraph 5 b (new)

***5b. Until 31 December 2015, all shipments to Romania of waste for recovery listed in Annex III shall be subject to the procedure of prior written notification and consent in accordance with Title II.***

***By way of derogation from Article 12, until 31 December 2011, the Romanian competent authorities may raise objections to shipments to Romania for recovery of the following waste listed in Annexes III and IV in conformity with the grounds for objection laid down in Article 11:***

***B2070***

***B2100, except waste alumina***

***B2120***

***B4030***

***Y46***

***Y47***

***A1010 and A1030 (only the indents referring to arsenic, mercury and thallium)***

***A1060***

***A1140***

*A2010*

*A2020*

*A2030*

*A3030*

*A3040*

*A3050*

*A3060*

*A3070*

*A3120*

*A3130*

*A3140*

*A3150*

*A3160*

*A3170*

*A3180 (applies only in respect of  
polychlorinated naphthalenes (PCN))*

*A4010*

*A4030*

*A4040*

*A4050*

*A4080*

*A4090*

*A4100*

*A4160*

*AA060*

*AB030*

*AB120*

*AC060*

*AC070*

*AC080*

*AC150*

*AC160*

*AC260*

**AC270**

**AD120**

**AD150**

***This period may be extended until no later than 31 December 2015 in accordance with the procedure referred to in Article 18(2) of Directive 75/442/EEC.***

***By way of derogation from Article 12, until 31 December 2011, the Romanian competent authorities may raise objections in conformity with the grounds for objection laid down in Article 11 to shipments to Romania of:***

***(a) the following waste for recovery listed in Annex IV:***

**A2050**

**A3030**

**A3180, except polychlorinated naphthalenes (PCN)**

**A3190**

**A4110**

**A4120**

**RB020**

***and of***

***(b) waste for recovery not listed in the Annexes.***

***This period may be extended until no later than 31 December 2015 in accordance with the procedure referred to in Article 18(2) of Directive 75/442/EEC.***

***By way of derogation from Article 12, the Romanian competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC, Directive 2000/76/EC or Directive 2001/80/EC during the period in which the temporary***

***derogation is applied to the facility of destination.***

*Justification*

*Paragraphs 5a and 5b (new) introduce the text of the Accession Treaties for Bulgaria and Romania into the Regulation as has been done in paragraphs 1 to 5 for Hungary, Latvia, Malta, Poland and Slovakia. In particular a number of waste entries have to be replaced by the appropriate entries listed in Annexes III and IV as has been done for Poland.*

Amendment 76

Article 63, paragraph 1, subparagraph 2

It shall apply from ..... \*

It shall apply from ..... \*

\_\_\_\_\_ \* **12** months after the date of publication of this Regulation.

\_\_\_\_\_ \* **10** months after the date of publication of this Regulation.

*Justification*

*Re-introduces the text of the European Commission.*

Amendment 77

Article 63, paragraph 1 a (new)

***1a. Should the date of accession of Bulgaria or Romania be later than the date of application specified in paragraph 1, Article 62(5a) and (5b) shall, by way of derogation from paragraph 1 of this Article, apply from the date of accession.***

*Justification*

*The transitional arrangements for Bulgaria and Romania introduced in Art. 62(5a) and (5b) should apply from the time of accession of these countries, but not earlier than the date of application of this Regulation.*

Amendment 78

Annex II, Part 1, paragraph 23 a (new)

**23a. A copy of the contract or evidence of the contract (or a declaration certifying its existence) between the facility and the broker or dealer, in the event that the broker or dealer acts as consignee.**

*Justification*

*Consequential change to the amendment of the definition of consignee in Art. 2(14). The wording is similar to Annex II, Part 1, point 23.*

Amendment 79  
Annex II, Part 3, paragraph 4

4. The transport distance(s) between the notifier and the **consignee**, 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.

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.

*Justification*

*Consequential change to ensure internal consistency. The waste is transported to a facility which carries out the recovery or disposal. Therefore the transport to the facility is relevant in Annex II, Part 3, points 4 and 5.*

Amendment 80  
Annex II, Part 3, paragraph 5

5. Information about costs of transport between the notifier and the **consignee**.

5. Information about costs of transport between the notifier and the **facility**.

*Justification*

*Consequential change to ensure internal consistency. The waste is transported to a facility which carries out the recovery or disposal. Therefore the transport to the facility is relevant in Annex II, Part 3, points 4 and 5*

Amendment 81  
Annex III, Part II, Item GC030 (Other Wastes Containing Metal)

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

Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials **contained in** the vessel which may have been classified as a dangerous substance or waste

*Justification*

*Re-introduces amendment 68 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*There is considerable concern at the way in which ships are broken up in Third World countries. In this regulation, the applicable conditions are not clear. Ships for scrapping come only under Annex III (green list), the assumption here being that they no longer contain hazardous waste or other hazardous substances. If ships do contain hazardous waste or other hazardous substances, however, they should come under Annex V (red list).*

Amendment 82  
Annex IIIB

**ANNEX IIIB**

**deleted**

**ADDITIONAL GREEN LISTED WASTE  
AWAITING INCLUSION IN THE  
RELEVANT ANNEXES TO THE BASEL  
CONVENTION OR THE OECD  
DECISION AS REFERRED TO IN  
ARTICLE 57(1)(b)**

*Justification*

*Unclassified waste should not be seen as "green" waste until it has not been classified. This can lead to unclear situations and shipments or exports of potentially hazardous waste. Until the final decision of the OECD or Basel Convention waste should be classified as hazardous waste.*

Amendment 83  
Annex V, Introductory notes, paragraph 2

2. This Annex consists of three parts, parts 2 and 3 of which apply only when part 1 is not applicable. Consequently, to determine whether a specific waste is listed in this Annex, an initial check must be made to

2. This Annex consists of three parts, parts 2 and 3 of which apply only when **List A of** part 1 is not applicable. Consequently, to determine whether a specific waste is listed in this Annex, an initial check must be made



ascertain whether the waste is listed in part 1 of this Annex, and, if it does not, whether it is listed in part 2, and, if it does not, whether it is listed in part 3.

Part 1 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 part 2 (i.e. types of waste marked with an asterisk) or in part 3, **and if this is the case**, it is covered by the export prohibition.

to ascertain whether the waste is listed in **List A of** part 1 of this Annex, and, if it does not, whether it is listed in part 2, and, if it does not, whether it is listed in part 3.

Part 1 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 List B lists wastes which are not **classified as hazardous**.

Thus, if a waste is listed in **List A of** part 1, **it is covered by the export prohibition**. If a waste is not listed in List A of part 1, **but features** among the hazardous waste listed in part 2 (i.e. types of waste marked with an asterisk) or in part 3, it is **also** covered by the export prohibition. \*

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**\* Part 2 is the list of wastes pursuant to Article 1(a) of Directive 75/442/EEC on waste and Article 1(4) of Directive 91/689/EEC on hazardous waste, where any waste marked with an asterisk (\*) is considered as a hazardous waste. Wastes not marked with an asterisk (\*) are not classified as hazardous.**

**Part 3 originates from Appendix 4, Parts I and II of the OECD Decision and lists wastes that are classified as hazardous.**

#### *Justification*

*Re-introduces amendment 69 and 70 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004), which was also incorporated in the amended proposal of the European Commission (COM(2004)172).*

*This amendment changes the order of the waste lists in such a way that the EU list of hazardous waste has a higher priority than the Basel list of non-hazardous waste.*

*This amendment replaces amendment 44 in order to make it clearer.*

Amendment 84  
Annex V, Part 1, List A (new entry)

***A1190 - Waste metal cables coated or insulated with plastics containing or contaminated with coal tar, PCB<sup>1</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>1</sup> PCBs at a concentration level of 50mg/kg or more.***

*Justification*

*The amendment to Annex VIII of the Basel Convention adopted by COP7 to the Basel Convention should be reflected in Annex V Part I of this Regulation.*

Amendment 85  
Annex V, Part 1, List B (new entry)

***B1115 - Waste metal cables coated or insulated with plastics, not included in list A A1190, excluding those destined for Annex IVA operations or any other disposal operations involving, at any stage, uncontrolled thermal processes, such as open-burning***

*Justification*

*The amendment to Annex IX of the Basel Convention adopted by COP7 to the Basel Convention in October 2004 should be reflected in Annex V Part I of this Regulation.*

Amendment 86  
Annex V, Part 2, Section 16 (Wastes not otherwise specified in the list), Item 16 01

16 01 end-of-life vehicles from different means of transport (including off-road machinery) and wastes from dismantling of end-of-life vehicles and vehicle maintenance (except 13, 14, 16 06 and 16

16 01 end-of-life vehicles from different means of transport (including off-road machinery, ***vessels and aircraft***) and wastes from dismantling of end-of-life vehicles and vehicle maintenance (except

08)

13, 14, 16 06 and 16 08)

*Justification*

*Re-introduces amendment 71 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*It is not clear in every language that 'vehicles' means more than cars. It must be made clear that agricultural machinery, vessels and aircraft are also covered.*

Amendment 87

Annex V, Part 2, Section 16 (Wastes not otherwise specified in the list), Item 16 01 04\* a  
(new)

***16 01 04\*a vessels and other floating structures for breaking up, not properly emptied of any cargo and other materials contained in the vessel which may have been classified as a dangerous substance or waste***

*Justification*

*Re-introduces amendment 72 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*There is considerable concern at the way in which ships are broken up in Third World countries. In this regulation, the applicable conditions are not clear. Ships for scrapping come only under Annex III (green list), the assumption here being that they no longer contain hazardous waste or other hazardous substances. If ships do contain hazardous waste or other hazardous substances, however, they should come under Annex V (red list). The asterisk against the number means that the waste is hazardous.*

Amendment 88

Annex V, Part 2, Section 16 (Wastes not otherwise specified in the list), Item 16 01 06 a  
(new)

***16 01 06a vessels and other floating structures for breaking up, properly emptied of any cargo and other materials contained in the vessel which may have been classified as a dangerous substance or waste***

### *Justification*

*Re-introduces amendment 73 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004).*

*There is considerable concern at the way in which ships are broken up in Third World countries. In this regulation, the applicable conditions are not clear. Ships for scrapping come only under Annex III (green list). It makes sense, however, for ships no longer containing hazardous waste or other hazardous substances to be added to the European Waste List (without being marked with an asterisk, since hazardous waste is not involved). That would provide a better guarantee of sound management of ships to be broken up: both the exporting and importing country could object to the transfer of a ship for breaking up if it is intended for disposal.*

### Amendment 89

Annex VIII, Part I, introductory part

I. Guidelines ***adopted*** under the Basel Convention:

I. Guidelines under the Basel Convention\*:

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***\* These guidelines are only applicable for waste shipments to OECD countries or shipments of non-hazardous waste for recovery to non-OECD countries.***

### *Justification*

*Re-introduces amendment 74 of EP first reading, adopted on 19 November 2003 (OJ C 87, 7.4.2004), which was also incorporated in the amended proposal of the European Commission (COM(2004)172).*

*For clarity an explanatory reference is helpful. Shipments of hazardous waste to non-OECD countries are not allowed according to Article 37. The three guidelines in Annex IX, part I apply only for hazardous waste at the moment. In the future it could be possible that guidelines which concern non-hazardous waste are added. Since shipment of non-hazardous waste for recovery to non-OECD countries is possible, Annex IX, part I could possibly apply to non-OECD countries in the future.*

### Amendment 90

Annex VIII, Part I, points 3 a, 3 b, and 3 c (new)

***3a. General Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic***

***Pollutants (POPs) <sup>1</sup>***

***3b. Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Polychlorinated Biphenyls (PCBs), Polychlorinated Terphenyls (PCTs) or Polybrominated Biphenyls (PBBs) <sup>1</sup>***

***3c. Technical Guidelines on the Environmentally Sound Recycling/Reclamation of Metals and Metal Compounds (R4) <sup>1</sup>***

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***<sup>1</sup> Adopted by the 7th meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 25-29 October 2004.***

***Justification***

***The Technical Guidelines adopted by COP7 to the Basel Convention in October 2004 should be reflected in Annex VIII of this Regulation.***

## EXPLANATORY STATEMENT

### 1. Introduction

Transporting waste is entirely normal - and indeed a good thing! Waste is collected from households and firms and subsequently transported to a plant where it can be processed in an environmentally sound fashion. There is a problem, however, in that there are more and more waste shipments over long distances - even across national borders and beyond the European Union. Over the years, a European waste market has emerged, with brisk international trade in waste. Especially for the new Member States this can be a problem, because of the import of all kinds of waste which can not be processed in an environmental friendly way. For this reason it is good to stress that the principles of self sufficiency and proximity still apply according to the Waste Framework Directive 75/442/EEC. Competition is based on price and environmental requirements. Price competition is part and parcel of the European internal market; but eco-competition is not. To counter eco-competition, minimum environmental requirements need to be laid down in European legislation.

### 2. History of the draft regulation

On 1 July 2003, the Commission presented its proposal for a Regulation of the European Parliament and of the Council on shipments of waste. The European Parliament gave its Opinion on 19 November 2003. On 10 March 2004, the Commission presented its amended proposal. On 24 June 2005, the Council adopted its common position.

The general objectives of the proposed Regulation are to:

- transpose into Community legislation the revised OECD Council Decision <sup>1</sup> and the revised Basel Convention <sup>2</sup> on the control of transboundary movements of waste;
- address the difficulties encountered in applying, administering and enforcing the 1993 Council Regulation ("the 1993 Regulation") <sup>3</sup>;
- pursue global harmonisation in the area of transboundary shipments of waste, and
- reorganise and simplify the structure of the Articles of the 1993 Regulation.

The main elements proposed include, inter alia, changes to the overall procedural framework (in particular regarding prior written notification and consent and information requirements), changes and clarifications regarding scope and definitions, provisions regarding shipments of waste between and within Member States, and provisions for exports and imports.

In the first reading, the European Parliament adopted 103 amendments. The main items were:

1. Single legal base: environment
2. Inclusion of animal by-products in the regulation
3. Objection grounds for waste shipments destined for disposal, such as: self-sufficiency at national level, interim operations, mixed municipal waste
4. Objection grounds for waste shipments destined for recovery, such as: lower treatments standards, national capacity, proximity principle, self-sufficiency principle,

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<sup>1</sup> OECD Decision C (2001) 107 Final of 21 May 2002 concerning the revision of Decision C(92) 39/FINAL on the control of transboundary movements of wastes destined for recovery operations.

<sup>2</sup> Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal, amended on 6 November 1998.

<sup>3</sup> (EEC) no. 259/93.

waste management plan, calorific value, hazardous substances, interim operations, mixed municipal waste, national recovery standards in case of lack of EU recovery standards

5. Ban on waste shipments for interim operations
6. Border area agreements
7. Information and transparency

### **3. Comments on the common position and recommendations for the second reading**

Of the 103 amendments adopted by the European Parliament at first reading, the common position incorporates 41 (totally, in part or in principle, by means of identical or similar wording, or in spirit). Sixty two amendments have not been accepted. The Council considers that the common position does not alter the approach and aims of the original Commission proposal. The seven main items of the first reading are discussed below:

1. Parliament and Council have accepted Article 175 (environment) as the single legal base because this regulation aims at protecting the environment and not at facilitating the trade in waste. This is also in line with the (non-binding) opinion of the Advocate General in Case C-178/03 (Commission versus Parliament and the Council on the legal base of the PIC-regulation) in which is concluded that a dual legal base is not possible and that if a piece of legislation has both environmental and internal market aspects, the legal base should be environment.
2. The Council excluded animal by-products totally from the scope of the regulation. There is no good reason why animal by-products, which, according to the definition in Article 1 of Directive 75/442/EEC, are regarded as waste, should be kept outside the scope of the regulation. Directive 75/442/EEC and this regulation are both items of cross-cutting legislation covering all waste. It is, therefore, strange to exempt certain types of waste. Regulation (EC) No 1774/2002 relates primarily to provisions on animal by-products and to a much lesser extent to the environmental aspects of animal by-product waste. That waste, in order to ensure that it is shipped in an environmentally sound and responsible fashion, should come within the scope of the regulation. Also the European Commission is against the deletion of animal by-products from this regulation and considers it to be preferable to bring forward its review of the relationship between this Regulation and regulation (EC) No 1774/2002 laying down health rules concerning animal by-products not intended for human consumption, so that the results of this review are made public before the entry into force of the Regulation
- 3/4. The objection grounds for waste shipment were only for a small part adopted by the Council. In the original Commission proposal, two procedures apply:
  - information procedure for non-hazardous waste destined for recovery. These shipments can always take place, there are no possibilities to object.
  - notification procedure for waste (hazardous or non-hazardous waste) destined for disposal and hazardous waste destined for recovery.

Notification procedure means that mutual consent is necessary. This means that in the case that both countries agree on a shipment, the shipment can take place. Objection to a shipment can only be made on the grounds mentioned in Article 11 (for disposal) and article 12 (for recovery). In the Commission proposal there were not enough possibilities to object a shipment for environmental reasons. This is even more complicated due to the discussions about the interpretation of the definitions of recovery and disposal. Many cases have been passed through the European Court of Justice. Until now the European Commission has not closed the gap in the legislations or at least clarified the definition in a practical applicable way. For this reason the European Parliament has chosen in the first reading to give Member States more possibilities to object a shipment. This does not mean that these shipments are banned, because it is not an obligation to object: in the case that both Member States agree, the shipment can simply take place. Above that, an objection must be environmentally justified, as proposed in several amendments on article 11 and 12. This means that sham recovery can be avoided.

5. Council did not accept the ban on waste shipments for so-called interim operations. It is hard to understand why the Council believes that these waste shipments can be tracked in order to know that a proper treatment has taken place. 'Interim disposal' or 'interim recovery' will simply bring about a lack of clarity. Waste which must first be stored for a long period, mixed or repackaged causes handling problems and lends itself to fraud. However, such cross-border waste shipments should preferably not be allowed at all. If they are allowed, rapid disposal or recovery should continue to be a condition. Incentives for interim processing of little value - e.g. for sorting or other treatment where it is not easy to check that it has been done properly - should be removed as far as possible. Furthermore, it is inconceivable that storage, repackaging and mixing of a Member State's waste should not be possible in that Member State (that would conflict with the principle of self-sufficiency). It can subsequently be shipped if it is intended for final disposal.
6. The proposal of the Parliament on border area agreements is accepted by the Council.
7. Amendments from the Parliament on information and transparency were not accepted by the Council and should therefore be re-tabled.

Although in a second reading, normally, no new amendments are tabled, some small changes are necessary for clarification and for being consistent with other parts of this regulation. Also, for enforcement an additional proposal is needed. The IMPEL-SEAPORT project shows the usefulness of regular spot-checking actions/raids on containers in ports on shipments to strengthen enforcement.

#### **4. Conclusion**

In many aspects the common position of the Council is an improvement in comparison to the original Commission proposal. The choice of environment as the single legal base, shows that the main aim of the Council is the protection of the environment. This was also the main aim of the European Parliament in the first reading. More improvements for the environment can be made by banning unjustified shipments, objecting to shipments which have no



environmental added value, avoiding sham recovery and having a better enforcement of this regulation.

The Commission has the important task to come forward with proposals on the Waste Framework Directive and the strategy on Waste Prevention and Recycling. These proposals are very important for this regulation in order to give clarity on definitions of disposal and recovery. The aim of this is to avoid waste shipment for sham recovery in the future.

## PROCEDURE

<b>Title</b>	Council common position for adopting a regulation of the European Parliament and of the Council on shipments of waste
<b>References</b>	15311/4/2004 – C6-0223/2005 – 2003/0139(COD)
<b>Legal basis</b>	Article 251(2) EC and 175(1) EC
<b>Basis in Rules of Procedure</b>	Rule 62
<b>Date of Parliament's first reading – P[5]</b>	18.11.2003                      P5_TA(2003)0505
<b>Commission proposal</b>	COM(2003)0379 – C5-0365/2003
<b>Amended Commission proposal</b>	COM(2004)0172
<b>Date receipt of common position announced in plenary</b>	4.7.2005
<b>Committee responsible</b> Date announced in plenary	ENVI 7.7.2005
<b>Rapporteur(s)</b> Date appointed	<b>Johannes Blokland</b> 12.7.2005
<b>Previous rapporteur(s)</b>	
<b>Discussed in committee</b>	14.9.2005              3.10.2005
<b>Date adopted</b>	3.10.2005
<b>Result of final vote</b>	for:                              23 against:                        18 abstentions:                   4
<b>Members present for the final vote</b>	Georgs Andrejevs, Johannes Blokland, John Bowis, Frederika Brepoels, Dorette Corbey, Chris Davies, Mojca Drčar Murko, Edite Estrela, Anne Ferreira, Satu Hassi, Gyula Hegyi, Mary Honeyball, Caroline Jackson, Dan Jørgensen, Eija-Riitta Korhola, Urszula Krupa, Peter Liese, Linda McAvan, Roberto Musacchio, Péter Olajos, Vittorio Prodi, Guido Sacconi, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Kathy Sinnott, Jonas Sjöstedt, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Marcello Vernola
<b>Substitutes present for the final vote</b>	Margrete Auken, María del Pilar Ayuso González, Giuseppe Castiglione, Bairbre de Brún, Milan Gaľa, Erna Hennicot-Schoepges, Karsten Friedrich Hoppenstedt, Caroline Lucas, Miroslav Mikolášik, Ria Oomen-Ruijten, Alojz Peterle, Robert Sturdy
<b>Substitutes under Rule 178(2) present for the final vote</b>	Elisabeth Jeggler, Seán Ó Neachtain
<b>Date tabled – A6</b>	10.10.2005                      A6-0287/2005
<b>Comments</b>	...