

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a Council Regulation (EEC) on the supervision and control of shipments of waste within, into and out of the European Community***COM(90) 415 final — SYN 305**(Submitted by the Commission on 10 October 1990)**(90/C 289/05)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100a and 113 thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 84/631/EEC<sup>(1)</sup>, as last amended by Directive 86/279/EEC<sup>(2)</sup>, organizes the supervision and control within the Community of trans-frontier shipment of hazardous waste;

Whereas the completion of the internal market by 1 January 1993 will remove internal frontiers, in particular as regards the movement of waste, and implies that there must be new procedures for the supervision and control of waste shipments as this will no longer be possible at frontiers;

Whereas the Community has signed the Basle Convention of 22 March 1989 on the control of trans-boundary movements of hazardous wastes and their disposal, thereby necessitating an adaptation of Community Regulations;

Whereas the relevant provisions of Article 39 of the Lomé Convention of 15 December 1989 (Fourth ACP-EEC Convention) must also be integrated into Community legislation;

Whereas the implementation of Directive 84/631/EEC has revealed certain difficulties relating in particular to the scope of the Directive and the procedure reserved for non-ferrous metal waste, and these difficulties need to be remedied;

Whereas it is important to organize the supervision and control of shipments of all wastes, subject to the making of exemptions for certain types of waste;

Whereas the legislation therefore needs to be completely revised;

Whereas the Community's waste strategy aims to reduce the production of waste to the lowest technologically and economically feasible level and reduce shipments to strict essentials in order to provide the best protection for the environment and human health;

Whereas a distinction must be made between, on the one hand, waste shipments within the Community and, on the other, exports out of the Community, imports into the Community and transit through the Community for disposal or for further use outside the Community;

Whereas the Council resolution of 7 May 1990 underlines the importance of the Community being self-sufficient in waste disposal;

Whereas, inside the Community, shipments of waste must be submitted for control as soon as they leave the jurisdiction of one authority and enter that of another; whereas it is important that such strict control and supervision be ensured right from its production up to its final disposal or further use, enabling the relevant authorities to be duly informed of its nature, movement and disposal so that they can take all necessary measures for the protection of human health and the environment, though without creating unjustified or disproportionate barriers to intra-Community trade or distorting competition;

<sup>(1)</sup> OJ No L 326, 13. 12. 1984, p. 31.

<sup>(2)</sup> OJ No L 181, 4. 7. 1986, p. 13.

Whereas, in particular, it must be possible to raise objections to waste shipments intended for disposal if there is an authorized disposal centre significantly nearer, and capable of ensuring an appropriate waste treatment;

Whereas less stringent rules may be applied to waste which is to be further used whilst reserving the possibility of action at the point of destination if the conditions of further use endanger human health or the environment;

Whereas, as regards exports out of the Community, imports into the Community and transit through the Community, Community Regulations must comply with the provisions of the Basle Convention and the Fourth ACP-EEC Convention while adhering to the GATT rules, and the convention of 20 May 1987 on a common transit regime, concluded between the Community and the EFTA countries (1);

Whereas the provisions of the Basle Convention are to promote an environmentally sound management of waste and, in consequence, to limit shipments as far as possible, duly taking into account the options taken by the third States concerned; whereas they are in line with the Community strategy for waste management;

Whereas, in this context, the principle of prior written consent of the State of destination must be observed;

Whereas shipments to developing countries of waste intended for disposal must be reduced as a matter of priority in due compliance with decisions on waste taken by those countries;

Whereas provision must be made for the waste to be taken back if the shipment cannot be completed in accordance with the terms of the contract;

Whereas, in the event of illegal traffic, the person whose action is the cause of such traffic must take back and/or dispose of the waste and, should he fail to do so, the competent authorities of dispatch or destination, as the case may be, must themselves intervene;

Whereas, in as much as it takes place within the Community, each waste shipment must be subject to a provision of security, except shipments of waste intended for further use, that take place between competent authorities within the Community;

Whereas Member States must provide scope for appeal by the notifier against the decisions taken by the competent authorities;

Whereas, in order to ensure that waste does not constitute an unnecessary risk, it must be properly packaged and labelled; whereas the instructions to be followed in the event of danger or accident must accompany the waste in order to protect man and the environment from any danger that might arise during the operation;

Whereas, in consultation with the Commission, Member States must designate specialized customs offices at the Community entry and exit points;

Whereas, in accordance with the 'polluter pays' principle, the costs of implementing the notification procedure, including the costs of inspection and analysis, must be borne by the notifier;

Whereas Member States must provide the Commission with any information relevant to the implementation of this Regulation, and must in particular prepare yearly reports on the basis of which the Commission must draw up a consolidated report;

Whereas a committee must be set up for the preparation of the documents provided for by this Regulation and for the adaptation of the Annexes to scientific and technical progress,

HAS ADOPTED THIS REGULATION:

## TITLE I

### General

#### Article 1

This Regulation shall apply to shipments of waste both within and into or out of the Community.

#### Article 2

1. For the purposes of this Regulation:

(a) *waste* means any substance or object which is covered by the categories listed in Annex I and which the holder disposes of, intends to dispose of or is required to dispose of;

(b) *competent authorities* means the competent authorities designated either by the Member States in accordance with Article 24 or by non-member States;

(1) OJ No L 226, 13. 8. 1987, p. 2.

- (c) *competent authority of dispatch* means the competent authority for the area from which the shipment is dispatched;
- (d) *competent authority of destination* means the competent authority for the area in which the shipment is received, or in whose area waste is loaded on board before disposal at sea;
- (e) *correspondent* means the central body designated by each Member State and the Commission, in accordance with Article 25;
- (f) *notifier* means any person to whom the duty to notify is assigned, or in other words the person referred to hereinafter, who proposes to ship waste or have waste shipped:
- the person whose activities produced the waste (original producer), or
  - where this is not possible, a collector licensed to this effect by a Member State, or
  - where these persons are unknown or unable to notify, the person having possession or control of the waste (holder), or
  - in the case of import into or transit through the Community of waste, the person designated by the laws of the State of dispatch;
- (g) *consignee* means the person or undertaking to whom or to which the waste is shipped for disposal or for further use;
- (h) *disposal* means any use of waste listed in Annex II.A;
- (i) *authorized centre* means any establishment or undertaking authorized or licensed pursuant to Article 6 of Council Directive 75/439/EEC <sup>(1)</sup>, Article 8 of Council Directive 75/442/EEC <sup>(2)</sup>, Article 6 of Council Directive 78/403/EEC <sup>(3)</sup>, or Article 9 of Council Directive 78/319/EEC <sup>(4)</sup>;
- (j) *further use* means any use of waste listed in Annex II.B;
- (k) *State of dispatch* means any State from which a shipment of waste is planned or made;
- (l) *State of destination* means any State to which a shipment of waste is planned or made for disposal, for further use, or for loading on board before disposal at sea;
- (m) *State of transit* means any State, other than the States of dispatch or of destination, through which a shipment of waste is planned or made;
- (n) *the Basle Convention* means the Basle Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal;
- (o) *the Fourth Lomé Convention* means the Lomé Convention of 15 December 1989.
2. The following shall be excluded from the scope of this Regulation:
- (a) the gathering of waste from households and from retail trade establishments;
  - (b) the offloading to shore of waste generated by the normal operation of ships, including waste water and residues, provided that such waste is the subject of a specific international instrument;
  - (c) substances mentioned in Article 2 (1) of Directive 75/442/EEC;
  - (d) waste intended for further use and featuring on a list to be drawn up in accordance with Article 31, provided that it is not covered by Annex III or, if it is covered by Annex III, does not possess any of the characteristics referred to in Annex V, and that it is not covered by Annex IV.

## TITLE II

### Movement of waste within the Community

#### Article 3

1. Where the notifier intends to ship waste intended for disposal or to have it shipped from the jurisdiction of one competent authority into that of another or to have it routed through the jurisdiction of one or several auth-

<sup>(1)</sup> OJ No L 194, 25. 7. 1975, p. 23.

<sup>(2)</sup> OJ No L 194, 25. 7. 1975, p. 39.

<sup>(3)</sup> OJ No L 108, 26. 4. 1976, p. 41.

<sup>(4)</sup> OJ No L 84, 31. 3. 1978, p. 43.

orities, and without prejudice to Articles 13 and 14 (2), he shall notify the competent authority of destination and send a copy of the notification to the competent authorities of dispatch and of transit.

2. Notification shall mandatorily cover any intermediary stage of the shipment from the place of dispatch until its final destination.

3. Notification shall be effected by means of a standard consignment note, (hereinafter referred to as the 'consignment note'), to be drawn up in accordance with Article 31.

The consignment note shall be issued by the competent authority of dispatch. It shall be printed in an official language of the Community selected by the competent authority of dispatch, and completed in an official language of the Community which is acceptable to the competent authority of destination. Any further information, including a translation, shall be supplied by the notifier at the request of the competent authorities concerned.

4. In making notification, the notifier shall supply the information requested on the consignment note, with particular regard to:

- the source and composition of the waste, including the producer's identity, and in the case of waste from various sources, a detailed inventory of the waste, and the identity of the original producers where known,
- the arrangements for routing and for insurance against damage to third parties,
- the measures to be taken to ensure safe transport and, in particular, compliance by the carrier with the conditions laid down for transport by the Member States concerned,
- the identity of the consignee of the waste, who should possess an authorized centre with adequate technical capacity for the disposal of the waste in question under conditions presenting no danger to human health or the environment,
- the existence of a contractual agreement with the consignee on the disposal of the waste. Should the waste be shipped between two establishments under the control of the same legal entity this agreement shall be replaced by a declaration by the entity in question undertaking to dispose of the waste.

#### *Article 4*

1. On receipt of the notification the competent authority of destination shall send an acknowledgement

to the notifier. It shall have 30 days following dispatch of the acknowledgement to consent to the shipment with or without reservations, to refuse permission for the shipment or to request additional information. Such refusal or reservations shall be based on objections made in accordance with paragraphs 2, 3 and 4. The competent authority of destination shall send a copy of the acknowledgement, and of its reply, to the other competent authorities concerned and to the consignee.

2. The objections referred to in paragraph 1 must be substantiated on the basis of laws and regulations relating to environmental protection, public order, public safety or health protection which are in accordance with Community law or with international conventions on this subject concluded by the Member State concerned in accordance with Community law.

3. The competent authority of dispatch may, within 20 days of receipt of the copy of the acknowledgement, raise objections to the planned shipment if there is an authorized centre significantly nearer than the one chosen by the notifier and which uses suitable technologies to ensure a high level of protection of the environment and human health.

The competent authority shall take account in its evaluation of all relevant circumstances, such as the geographical situation, the nature of the waste, the economic aspects of the operation (in order to prevent distortion of competition), the capacity and the availability of the planned centre or the implementation of programmes or plans drawn up pursuant to Article 5 of Directive 75/439/EEC, Article 6 of Directive 75/442/EEC, Article 6 of Directive 76/403/EEC or Article 12 of Directive 78/319/EEC. It shall give reasons for its decision. Where necessary it shall be for the notifier to prove that disposal cannot be effected nearby in the manner and under the conditions described above.

The objections may also be substantiated by the fact that the notifier or the consignee has previously been guilty of illegal trafficking.

These objections shall be conveyed to the notifier with copies sent to the competent authorities concerned and to the consignee.

The competent authority of destination may, in accordance with the same procedure, exercise the right to raise such objections.

4. Within 20 days of receipt of the copy of the acknowledgement the competent authority of dispatch may raise objections on the grounds that the shipment of waste conflicts with obligations resulting from international agreements on this subject concluded by the Member State of dispatch in accordance with Community law. Such objections shall be conveyed to the notifier of the waste with copies sent to the competent authorities concerned and to the consignee.

5. Without prejudice to the provisions of paragraphs 1, 2, 3 and 4, the competent authorities of dispatch, destination and, where appropriate, of transit shall have 20 days following the notification in which to lay down, if appropriate, conditions in respect of the transport of waste within their jurisdiction. These conditions, which must be notified to the notifier, with copies sent to the competent authorities concerned, may not be more stringent than those laid down in respect of similar shipments occurring wholly within their jurisdiction and shall take due account of existing agreements.

6. Once the competent authorities of destination and, where applicable, the competent authorities of dispatch are satisfied that the problems giving rise to their objections have been solved, they shall immediately inform the notifier in writing, with copies sent to the consignee and the other competent authorities concerned. If there is then an essential change in the conditions of the shipment, a new notification shall be made.

7. The shipment may be effected only after the notifier has received authorization from the competent authority of destination. The latter shall give the authorization only in the absence of objections raised by himself or by the competent authority of dispatch, or subject to reservations further to these objections.

The competent authority of destination shall signal his assent by affixing his seal to the consignment note. Any reasons for refusal shall be sent to the notifier, to the consignee, and to the other competent authorities.

#### Article 5

1. With due regard for the obligations imposed on him by Article 3 the notifier may use a general notification procedure where waste having essentially the same physical and chemical characteristics is shipped regularly to the same destination via the areas of jurisdiction of the same competent authorities.

2. The competent authorities concerned may make their agreement to the use of this general notification procedure subject to the subsequent supply of additional information. If the notifier does not compose the waste as notified or meet the conditions imposed on its shipment, the competent authorities concerned may withdraw their consent to this procedure.

3. Under a general notification procedure, a single notification within the meaning of Article 3 (1) may cover several shipments of waste over a maximum period of one year. The indicated period may be shortened *ex officio* by the competent authorities concerned.

4. General notification shall be made by means of the consignment note.

#### Article 6

1. If the notifier has received the authorization, he shall complete the consignment note and send copies to the competent authorities concerned three working days before the shipment is made.

2. A specimen of the consignment note, together with the authorization, shall accompany each shipment.

3. All undertakings involved in the operation shall complete the consignment note at the points indicated, sign it and retain a copy thereof.

4. Within 15 days following receipt of the waste the consignee shall send a copy of the duly completed consignment note to the notifier and to the competent authorities concerned.

#### Article 7

1. Waste intended for further use shall be subject to the provisions of Articles 3, 4 and 6 unless the following conditions are fulfilled:

- (a) the notifier makes a declaration on a standard document which shall be drawn up in accordance with Article 31 and must accompany the shipment, to the effect that these substances are intended for the operations in question, and forwards a copy of this document to the competent authorities concerned. The competent authority of destination shall send an acknowledgement to the notifier within three working days of the notification;

(b) the document also states:

- the origin and composition of the waste, including the identity of the producer, and, in the case of waste from various sources, a detailed inventory of the waste and, if known, the identity of the original producers,
- the identity of the consignee, who must possess an appropriate authorized centre,
- the existence of a contractual agreement with the final consignee.

Should the waste be shipped between two establishments under the control of the same legal entity the aforesaid agreement shall be replaced by a declaration by the entity in question undertaking to make further use of the waste;

- (c) the producer may carry out the shipment or have it carried out only in the absence of reasoned objections, as mentioned in Article 4 (2), from the competent authority of destination within 15 days following the date of sending the acknowledgement;
- (d) the consignee declares in the same document, which he shall forward to the competent authority of destination within 15 days of completion of the operations, that these operations have actually been carried out. If the operations have not been carried out within 30 days of receipt of the waste, the consignee also declares without delay on a copy of the document, which he shall send to the competent authority of destination, the period within which these operations will actually be carried out.

2. The competent authority of destination may decide that it will not raise objections regarding shipments to a specific consignee. It may limit its decision to a certain period.

#### Article 8

This Title shall also be applicable to the shipment of waste taking place between the jurisdictions of competent authorities of the Community with transit via one or more third States, the competent authority of which shall receive a copy of the notification from the notifier and shall exercise all rights conferred on it by Article 12.

### TITLE III

#### Export of waste out of the Community

##### Article 9

1. All exports of waste covered by Annex III (unless they do not possess any of the characteristics contained in Annex V), as well as waste covered by Annex IV shall be prohibited:

- (a) to a State not party to the Basle Convention;
- (b) to the area south of latitude 60° south.

2. All exports to ACP States of waste covered by Annexes III and IV shall be prohibited; this prohibition does not preclude Member States, to which an ACP State has decided to export waste for treatment, from re-exporting the treated waste to that ACP State.

3. Without prejudice to Articles 13 and 14 (2) all exports of waste shall be prohibited:

- (a) to a State which prohibits all imports of such wastes or which has not given its written consent to the specific import of this waste;
- (b) if the competent authority of dispatch has reason to believe that the waste will not be managed in accordance with environmentally sound methods in the State of destination;
- (c) if they have not been authorized in accordance with Article 10 (2) or (3).

4. In addition, the competent authority of dispatch may authorize the export of waste only if:

- (a) the technical capacity and the necessary facilities or desired sites for disposing of the waste in question by efficient and environmentally sound methods are not available within the Community; or
- (b) the State of destination has stated that the waste in question is needed as a raw material for recycling or recovery industries.

5. The competent authority of dispatch shall require that the waste for export be managed in an environmentally sound manner throughout the period of shipment and in the State of destination.

*Article 10*

1. Where waste is exported from the Community for disposal or for further use in a third State, the notifier shall send the notification to the competent authority of dispatch by means of the standard consignment note referred to in Article 3 (3), with copies sent to the consignee of the waste and the other competent authorities concerned.

The notifier shall ensure that the notification enables the third States concerned to evaluate the consequences for human health and the environment of the proposed shipments.

The competent authority of dispatch shall at once send the notifier a written acknowledgment of the notification.

2. The competent authority of dispatch shall authorize the shipment only if it has received written confirmation from the notifier that the latter has received:

- (a) the written consent of the State of destination to the planned shipment;
- (b) confirmation from the State of destination of the existence of a contract between the notifier and the consignee specifying environmentally sound management of the waste in question;
- (c) written consent to the planned shipment from the State(s) of transit, that are Parties to the Basle Convention, provided that such State(s) has (have) not waived this in accordance with the terms of that Convention.

The competent authority of dispatch shall take its decision no later than three months after receipt of the notification and shall send it to the notifier. He shall send a certified copy of the decision to the other competent authorities concerned and to the customs office of departure from the Community.

3. Notwithstanding paragraph 2, where the waste is disposed of in a third State bordering on the last Member State of transit, the latter shall be entitled to assign to its competent authority of transit the right to issue the authorization or to raise objections provided for in that paragraph. A Member State intending to exercise the right conferred upon it by this paragraph shall so inform the Commission and the other Member States. It may exercise this right only three months at least after so doing.

4. Without prejudice to paragraph 1, the competent authority of dispatch and, if applicable, the competent authorities of transit in the Community shall have 20 days following notification in which to lay down, if appropriate, conditions in respect of the shipment of waste in their area of jurisdiction. These conditions, which shall be forwarded to the notifier, with a copy sent to the other competent authorities concerned, may not be more stringent than those laid down in respect of similar shipments effected wholly within the area of jurisdiction of the competent authority in question.

5. Not later than 20 days after receipt of the notification, the competent authority of dispatch may raise objections on the grounds that the shipment of waste conflicts with obligations resulting from international agreements on this subject concluded by the Member State concerned, with due regard for Community law. Such objections shall be forwarded to the notifier with a copy sent to the other competent authorities concerned.

6. The consignment note shall be issued by the competent authority of dispatch. It shall be printed and completed in an official language of the Community selected by the competent authority of dispatch. Any additional information, including a translation, shall be supplied by the notifier at the request of the State of destination in its own language or in a language acceptable to it.

7. Article 6 (1), (2) and (3) shall apply by analogy. A specimen of the consignment note shall be delivered by the carrier to the last customs office of departure when the waste leaves the Community.

8. As soon as the waste has left the Community, the customs office of departure shall send a copy of the consignment note to the competent authority that issued the authorization.

9. If, six weeks after the waste has left the Community, the competent authority that conveyed the authorization has received no information from the consignee about his receipt of the waste, it shall inform without delay the competent authority of destination. It shall take action in a similar way if, 90 days after the waste left the Community, it has received no information from the consignee about the completion of the operations of disposal or further use as required by the authorization.

## TITLE IV

**Import of waste into the Community***Article 11*

1. All imports of waste covered by Annex III (unless they do not possess any of the characteristics contained in Annex V), and waste covered by Annex IV, from a State that is not party to the Basle Convention shall be prohibited.

2. Without prejudice to Articles 13 and 14 (2), all imports of waste shall be prohibited if they have not been authorized according to paragraph 5.

3. The competent authority of destination shall prohibit the bringing of waste into its area of jurisdiction if it has reason to believe that the waste will not be managed in an environmentally sound manner.

4. Notification shall be made to the competent authority of destination by means of the standard consignment note referred to in Article 3 (3) with a copy sent to the consignee of the waste and to the competent authorities of transit. The consignment note shall be issued by the competent authority of destination and printed and completed in an official Community language indicated by the competent authority of destination.

5. The competent authority of destination shall at once send the notifier a written acknowledgement of the notification. It shall, within three months, authorize the shipment with or without reservations, refuse permission for the shipment, or request additional information. Any refusal or reservations shall be justified. It shall send a certified copy of the final answer to the competent authorities concerned, to the customs office of entry into the Community and to the consignee.

6. The competent authority of destination and, if applicable, the competent authority or authorities of transit in the Community shall have 20 days following notification to lay down, if appropriate, conditions in respect of the transport of the waste. These conditions, which must be conveyed to the notifier, with copies sent to the competent authorities concerned, may not be more stringent than those laid down in respect of similar shipments occurring wholly within the jurisdiction of the competent authority in question.

7. The provisions of Article 6 (1), (2) and (3) shall apply *mutatis mutandis*.

8. Within 15 days after receipt of the waste, the consignee shall send a copy of the duly completed consignment note to the notifier and to the competent authorities concerned.

9. Within 60 days after entry of the waste into the Community, the consignee shall inform the notifier and the competent authorities concerned about the completion of the disposal or further-use operations in accordance with the terms of the authorization.

## TITLE V

**Transit of waste through the Community for disposal or further use outside the Community***Article 12*

1. The notification shall be sent by means of the standard consignment note referred to in Article 3 (3) to the last competent authority of transit within the Community, with a copy sent to the consignee, to the other competent authorities concerned, and to the customs offices of entry into and departure from the Community.

2. The last competent authority of transit within the Community shall promptly inform the notifier of receipt of the notification. The other competent authorities in the Community shall convey their reactions to the last competent authority of transit in the Community, which shall then respond in writing to the notifier within 60 days, consenting to the shipment with or without reservations, withholding permission to proceed with the shipment or requesting additional information. Any refusal or reservations shall be justified. It shall send a certified copy of its response both to the other competent authorities concerned and to the customs offices of entry into and departure from the Community.

3. Without prejudice to Articles 13 and 14 (2), the shipment shall be admitted into the Community only if the notifier:

- has received the written consent of the last competent authority of transit, or
- has received no reply within 60 days following receipt of the acknowledgement of receipt.

4. The competent authorities of transit within the Community shall have 20 days following notification to lay down, if appropriate, any conditions attached to the transport of the waste. These conditions, which must be conveyed to the notifier, with copies sent to the competent authorities concerned, may not be more stringent than those laid down in respect of similar

shipments occurring wholly within the jurisdiction of the competent authority in question.

5. The consignment note shall be issued by the last competent authority of transit within the Community. It shall be printed and drawn up in English or French.

6. The provisions of Article 6 (1), (2) and (3) shall apply *mutatis mutandis*. A specimen of the consignment note shall be supplied by the carrier to the customs office of departure when the waste leaves the Community.

7. As soon as the waste has left the Community, the customs office of departure shall send a copy of the consignment note to the last competent authority of transit within the Community. Furthermore, at the latest six weeks after the waste has left the Community, the notifier shall declare or certify to that competent authority that it has arrived at its intended destination.

#### TITLE VI

#### Provisions common to Titles II, III, IV and V

##### Article 13

Where a shipment of waste to which the competent authorities concerned have consented cannot be completed in accordance with the terms of the contract, the competent authority of dispatch shall ensure that the notifier returns the waste to its area of jurisdiction, unless the waste can be disposed of in an alternative and environmentally sound manner, within 90 days of the competent authority of dispatch being informed. Where disposal entails the shipment of waste to the area of a competent authority other than that of dispatch, a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste.

##### Article 14

1. Any shipment of waste conducted:

- (a) without notification of all competent authorities concerned pursuant to the provisions of this Regulation; or
- (b) without the consent of the competent authority concerned pursuant to the provisions of this Regulation; or
- (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

(d) that is not substantially as specified in the consignment note; or

(e) that results in deliberate disposal in contravention of Community or international rules; or

(f) contrary to Article 9,

shall be deemed to be illegal traffic.

2. If this illegal traffic is the result of conduct on the part of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:

- (a) taken back by the notifier or, if necessary, by itself into its area of jurisdiction; or, if impracticable
- (b) otherwise disposed of in an environmentally sound manner

within 30 days from the time when it was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned. To this end they shall not object to the return of the waste to the area of jurisdiction of the competent authority of dispatch.

3. If this illegal traffic is the result of conduct on the part of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if necessary, by itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end they shall cooperate, as necessary, in the disposal of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to the notifier, or to the consignee, the competent authorities shall ensure, through cooperation, that the waste in question is disposed of in an environmentally sound manner.

5. Member States shall prohibit and severely penalize illegal traffic.

##### Article 15

1. All shipments of waste covered by Titles II (except Article 7), III, IV and V shall be subject to a provision of security. This shall be lodged:

— by the notifier with the administrative office designated by the competent authority of departure

where waste is being moved within the Community; the surety shall be released when the waste has reached its destination,

— by the notifier with the customs office of departure where waste is being exported out of the Community; the surety shall be returned to him when the waste leaves the Community,

— by the consignee at the customs office of entry into the Community where waste is being imported into the Community; the surety shall be returned to him when the waste has reached its destination,

— by the notifier at the customs office of entry into the Community where waste is in transit through the Community; the surety shall be returned to him when the waste leaves the Community.

2. Proof that the waste has reached its destination or left the Community shall be furnished by means of control copy T 5 drawn up under Commission Regulation (EEC) No 2823/87 <sup>(1)</sup>.

3. The amount of the security, exceptions to release and the procedure for providing securities shall be determined in accordance with Article 31.

#### Article 16

The provisions of Titles II, III, IV and V shall apply without prejudice to any bilateral, multilateral or regional agreements or arrangements which the Community, or the Community and Member States, may deem fit to conclude pursuant to Article 11 of the Basle Convention.

#### Article 17

1. Under Titles III, IV and V, the notifier may use a general notification procedure where waste having essentially the same physical and chemical characteristics is shipped regularly to the same consignee via the areas of jurisdiction of the same competent authorities.

2. Article 5 (2), (3) and (4) shall apply *mutatis mutandis*.

#### Article 18

Member States shall provide that an appeals procedure before the tribunals shall be open at least to the notifier against the following decisions of the competent authorities:

- (a) any refusal by the competent authority entitled to issue the authorization, to authorize the shipment within the intended period, pursuant to Articles 4 (1), 10 (2), 11 (5) and 12 (2);
- (b) any reservations or conditions linked to the authorization referred to under (a);
- (c) any objections raised by the competent authorities in the Community against the shipment as intended by the notification, pursuant to Articles 4 (3) and (4), and 7 (1) (c);
- (d) any transport conditions pursuant to Articles 4 (5), 10 (4), 11 (6) and 12 (4).

#### Article 19

In compliance with the provisions of this Regulation, Member States shall take the measures needed to ensure the supervision and control of waste shipments.

### TITLE VII

#### Other provisions

#### Article 20

1. All shipments of waste shall meet the following conditions:

- (a) the waste must be suitably packaged;
- (b) the containers must bear appropriate labels indicating, in addition to the nature, composition and quantity of the waste, the telephone number(s) of the person(s) from whom instructions or advice may be obtained at all times during shipment;
- (c) instructions for action in the event of danger or accident must accompany the waste;
- (d) the labels and instructions referred to in (b) and (c) must be in the languages of the States concerned.

2. The conditions referred to in paragraph 1 shall be deemed to be fulfilled where the shipment complies with the relevant provisions of Community law and of the international transport conventions, cited in Annex VI, to which the Member State concerned is a party, where those conventions cover the waste to which this Regulation refers.

<sup>(1)</sup> OJ No L 270, 23. 9. 1987, p. 1.

*Article 21*

1. The cost of implementing the notification and supervision procedure, including the necessary analyses and inspections, shall be chargeable to the notifier by the Member State concerned.

2. Costs arising from the return of waste or from disposal in another form pursuant to Articles 13 and 14 (2) shall be charged to the notifier by the Member State concerned.

3. Costs arising from disposal, pursuant to Article 14 (3), shall be charged to the consignee by the Member State concerned.

*Article 22*

1. Without prejudice to Community and national provisions concerning civil liability and irrespective of the point of disposal of the waste the producer of that waste shall take all necessary steps to dispose of the waste in such a way as to protect the quality of the environment in accordance with Directive 75/442/EEC, including the specific provisions referred to in Article 2 (2) (f) thereof and in this Regulation.

2. Member States shall take all necessary steps to ensure that the obligations laid down in paragraph 1 are carried out.

*Article 23*

All documents sent to or by the competent authorities shall be kept for at least three years.

*Article 24*

Member States shall designate the competent authority or authorities for the implementation of this Regulation in a specific area. A single competent authority of transit shall be designated by each Member State.

*Article 25*

1. Member States and the Commission shall each designate a correspondent responsible for informing or advising persons or undertakings who or which make enquiries.

2. The Commission shall periodically hold a meeting of its correspondents to examine with them the problems raised by the implementation of this Regulation.

3. The Commission correspondent shall forward to the correspondents of the Member States any questions put to him which fall within their competence, and vice versa.

*Article 26*

1. Member States shall notify the Commission not later than 1 October 1991 of the name(s), address(es) and telephone and telex/telefax numbers of the competent authorities and of the correspondents and the installations, establishments or undertakings holding an authorization within the meaning of the fourth indent of Article 3 (4), together with the seals of the competent authorities.

Member States shall notify the Commission regularly of any changes in this information.

2. The Commission shall send the information without delay to the other Member States and to the Secretariat of the Basle Convention.

*Article 27*

1. In consultation with the Commission, Member States shall designate customs offices of entry into and departure from the Community for shipments of waste entering and leaving the Community.

2. No shipment of waste shall be allowed to use any other frontier crossing points for entering or leaving the Community than the customs offices designated under paragraph 1.

*Article 28*

Within the framework of the Basle Convention, the Member States, in close liaison with the Commission, shall cooperate with the other interested parties *inter alia* via the exchange of information, the promotion of new environmentally sound technologies and the development of appropriate codes of practice.

*Article 29*

The Commission and Member States shall cooperate in discharging their obligations regarding the supply of information under Article 13 of the Basle Convention.

*Article 30*

1. Every year, and for the first time on 1 March 1993, Member States shall supply the Commission with a report on the implementation of this Regulation and on the situation with regard to the shipments of waste covered by this Regulation.

2. The reports shall include the following information in particular:

- shipments of waste arising from major accidents within the meaning of Article 1 of Council Directive 82/501/EEC of 24 June 1982 on the major accident hazards of certain industrial activities<sup>(1)</sup>,
  - significant irregularities in shipments of waste covered by this Regulation which have involved or may yet involve serious hazards for man or the environment,
  - the quantity and type of waste which has entered the area of jurisdiction of the competent authorities for disposal and the quantity and type of waste produced in the area of jurisdiction of the competent authorities and subsequently dispatched to another competent authority, either definitively or before disposal at sea.
3. On the basis of these reports, the Commission shall prepare a consolidated report every year, which it shall address to the European Parliament, the Council and the Economic and Social Committee.

#### *Article 31*

The list provided for in Article 2 (2) (d), the standard consignment note and the standard document referred to respectively in Articles 3 (3) and 7 and the necessary general provisions and instructions relating to the note and form and the provisions necessary for applying Article 15 (3), shall be drawn up by the Commission before 1 January 1992, in accordance with the procedure laid down in Article 32. The same procedure shall apply to the amendments needed to adapt these documents and the Annexes to this Regulation to scientific and technical progress, due account being taken of the combined nomenclature.

#### *Article 32*

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

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<sup>(1)</sup> OJ No L 230, 5. 8. 1982, p. 1.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may set as required by the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer implementation of the measures adopted for a period of not more than one month from the date of said communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

#### *Article 33*

Directive 84/631/EEC is hereby repealed with effect from 1 January 1992. However, it shall continue to apply to shipments for which notification has been sent to the competent authority before that date.

#### *Article 34*

1. This Regulation shall enter into force on the 40th day following that of its publication in the *Official Journal of the European Communities*.

2. It shall apply from 1 January 1992 with the exception of Articles 2, 9 (1) and (2), 24 to 29, 31 and 32 which shall apply from its date of entry into force and without prejudice to the second sentence of Article 33.

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

*ANNEX I***CATEGORIES OF WASTE**

- Q1 Production or consumption residues not otherwise specified below
  - Q2 Off-specification products
  - Q3 Time-expired products
  - Q4 Substances spilled, lost or having undergone other mishap including any materials, equipment, etc., contaminated as a result of the mishap
  - Q5 Substances contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packaging materials, containers, etc.)
  - Q6 Unusable components (e.g. discarded batteries, exhausted catalytic converters, etc.)
  - Q7 Substances which no longer perform satisfactorily (e.g. contaminated acids, contaminated solvents, spent tempering salts, etc.)
  - Q8 Residues of industrial processes (e.g. slags, still bottoms, etc.)
  - Q9 Residues from pollution abatement processes (e.g. scrubber sludges, air-filter dusts, spent filters, etc.)
  - Q10 Machining/forming residues (e.g. lathe or milling swarf, etc.)
  - Q11 Residues from raw-materials extraction and processing (e.g. mining residues, oil field slops, etc.)
  - Q12 Adulterated products (e.g. oils contaminated with PCBs, etc.)
  - Q13 Any materials, substances or products whose use has been banned by law
  - Q14 Products for which the holder has no further use (e.g. agricultural, household, office, retailing and workshop discards, etc.)
  - Q15 Contaminated materials, substances or products resulting from land reclamation
  - Q16 Any materials, substances or products which the holder wishes to dispose of, or is required to dispose of, and which are not contained in the above categories
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*ANNEX II***A. DISPOSAL OPERATIONS**

- D1 Tipping above or underground (e.g. landfill, etc.)
- D2 Land treatment (e.g. biodegradation of liquid effluents or sludges in soils, etc.)
- D3 Deep injection (e.g. injection of pumpable effluents into wells, salt domes or naturally occurring repositories, etc.)
- D4 Surface impoundment (e.g. dumping of liquid effluents or sludges into pits, ponds or lagoons, etc.)
- D5 Specially engineered landfill (e.g. discharge into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release of solid waste into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are disposed of by means of any of the operations listed in Annex II.A.
- D9 Physical-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are disposed of by means of any of the operations listed in Annex II.A. (e.g. evaporation, drying, calcination, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g. of containers in a mine, etc.)
- D13 Blending or mixing prior to any of the operations in Annex II.A.
- D14 Repackaging prior to any of the operations in Annex II.A.
- D15 Storage pending any of the operations in Annex II.A.

*NB:* Annex II.A. is intended to list disposal operations such as occur in practice. These operations may or may not be acceptable from the point of view of environmental protection.

**B. OPERATIONS WHICH MAY LEAD TO RECOVERY**

- R1 Use principally as a fuel or other means of generating energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents

- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic substances
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalytic converters
- R9 Re-refining or other re-uses of oil
- R10 Spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological conversion processes
- R11 Uses of residues obtained from any of the operations numbered R1-R10
- R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- R13 Accumulation of material intended for submission to any operation in Annex II.B.

*NB:* Annex II.B. is intended to list the processes and methods intended to extract and/or to utilize secondary materials. These processes and methods may or may not be acceptable from the point of view of environmental protection.

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*ANNEX III*

**CATEGORIES OF HAZARDOUS WASTES REQUIRING SUPERVISION**

**Waste streams**

- Y1 Clinical wastes from medical care in hospitals, medical centres and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and plant health care products
- Y5 Wastes from the manufacture, formulation and use of wood preserving agents
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations involving cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oil/water, hydrocarbon/water mixtures and emulsions

- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from the production, formulation and use of resins, latex plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of a potentially explosive nature not subject to other legislation
- Y16 Wastes from the production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from the surface treatment of metals and plastics
- Y18 Residues arising from industrial waste disposal operations

**Wastes containing**

- Y19 Carbonyl metals
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form

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- Y35 Basic solutions or bases in solid form
  - Y36 Asbestos (dust and fibres)
  - Y37 Organic phosphorous compounds
  - Y38 Organic cyanides
  - Y39 Phenols; phenol compounds including chlorophenols
  - Y40 Ethers
  - Y41 Halogenated organic solvents
  - Y42 Organic solvents excluding halogenated solvents
  - Y43 Any congener of polychlorinated dibenzo-furan
  - Y44 Any congener of polychlorinated dibenzo-p-dioxin
  - Y45 Organohalogen compounds other than the substances referred to in this Annex (e.g.: Y39, Y41, Y42, Y43, Y44)

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*ANNEX IV*

**CATEGORIES OF WASTE REQUIRING SPECIAL CONSIDERATION**

- Y46 Wastes collected from households
  - Y47 Residues arising from the incineration of household wastes
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## ANNEX V

## LIST OF HAZARDOUS CHARACTERISTICS

UN class (*)	Code	Characteristics
1	H1	<p>Explosive</p> <p>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</p>
2	H3	<p>Flammable liquid</p> <p>Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified by virtue of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60,5 °C, in a closed-cup test, or not more than 65,6 °C, in an open-cup test. (Since the results of open-cup tests and closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowances for such differences would be within the spirit of this definition).</p>
4.1	H4.1	<p>Flammable solids</p> <p>Solids, or waste solids, other than those classed as explosives which, under the conditions encountered in transport, are readily combustible, or may cause or contribute to fire through friction.</p>
4.2	H4.2	<p>Substances or wastes liable to spontaneous combustion</p> <p>Substances or wastes which are likely to heat up spontaneously under the normal conditions encountered in transport, or to heat up on contact with air, and being then likely to catch fire.</p>
4.3	H4.3	<p>Substances or wastes which, in contact with water, emit flammable gases</p> <p>Substances or wastes which, by interaction with water, are likely to become spontaneously flammable or to give off flammable gases in dangerous quantities.</p>
5.1	H5.1	<p>Oxidizing</p> <p>Substances or wastes which, while in themselves not necessarily combustible, may generally by yielding oxygen cause, or contribute to, the combustion of other materials.</p>
5.2	H5.2	<p>Organic peroxides</p> <p>Organic substances or wastes which contain the bivalent -O-O- structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.</p>
6.1	H6.1	<p>Poisonous (acute)</p> <p>Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or in contact with the skin.</p>

UN class <sup>(1)</sup>	Code	Characteristics
6.2	H6.2	Infectious substances Substances or wastes containing viable micro-organisms or their toxins which are known or suspected to cause disease in animals or human beings.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Release of toxic gases on contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which, if released, cause or may cause immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

<sup>(1)</sup> Corresponds to the hazard classification system included in the United Nations recommendations on the transport of dangerous goods (ST/SG/AC.10/1/Rev. 5, United Nations, New York, 1988).

#### Tests

The potential hazards due to certain types of waste are not yet fully documented; tests to define these hazards quantitatively do not exist. Further research is necessary in order to develop means to characterize the potential hazards to man and/or the environment arising from these wastes. Standardized tests relating to pure substances and materials have been developed. Many countries have devised national tests which can be applied to the substances listed in Annex I, in order to decide if they exhibit any of the characteristics listed in this Annex.

*ANNEX VI***LIST OF INTERNATIONAL TRANSPORT CONVENTIONS REFERRED TO IN ARTICLE  
20 (2) (1)**

## 1. ADR

European Agreement concerning the international carriage of dangerous goods by road (1957)

## 2. Cotif

Convention concerning the international carriage of dangerous goods by rail (1985)

## RID

Regulation on the international carriage by rail of dangerous goods (1985)

## 3. Solas Convention

International Convention for the Safety of Life at Sea (1974)

## 4. IMDG code (2)

International Maritime Dangerous Goods Code

## 5. Chicago Convention

Convention on International Civil Aviation (1944), Annex 18 to which deals with the carriage of dangerous goods by air (T.I.: Technical Instructions for the Safe Transport of Dangerous Goods by Air)

## 6. Marpol Convention

International Convention for the Prevention of Pollution from Ships (1973 to 1978)

## 7. ADN

Regulations on the carriage of dangerous substances on the Rhine (1970)

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(1) This list contains those Conventions in force at the time of adoption of this Regulation.

(2) Since 1 January 1985, the IMDG code has been incorporated in the Solas Convention.