

Regulation (EC) No 1013/2006 of the European Parliament
and of the Council of 14 June 2006 on shipments of waste

TITLE II

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

Article 3

Overall procedural framework

1 Shipments of the following wastes shall be subject to the procedure of prior written notification and consent as laid down in the provisions of this Title:

a if destined for disposal operations:

all wastes;

b if destined for recovery operations:

(i) wastes listed in Annex IV, which include, *inter alia*, wastes listed in Annexes II and VIII to the Basel Convention,

(ii) wastes listed in Annex IVA,

(iii) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA,

(iv) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA.

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

a waste listed in Annex III or IIIB;

b mixtures, not classified under one single entry in Annex III, of two or more wastes listed in Annex III, provided that the composition of these mixtures does not impair their environmentally sound recovery and provided that such mixtures are listed in Annex IIIA, in accordance with Article 58.

3 For wastes listed in Annex III, in exceptional cases, the relevant provisions shall apply as if they had been listed in Annex IV, if they display any of the hazardous characteristics listed in Annex III to Directive 91/689/EEC. These cases shall be treated in accordance with Article 58.

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.

5 Shipments of mixed municipal waste (waste entry 20 03 01) collected from private households, including where such collection also covers such waste from other producers, to

recovery or disposal facilities shall, in accordance with this Regulation, be subject to the same provisions as shipments of waste destined for disposal.

CHAPTER 1

Prior written notification and consent

Article 4

Notification

Where the notifier intends to ship waste as referred to in Article 3(1)(a) or (b), he/she shall submit a prior written notification to and through the competent authority of dispatch and, if submitting a general notification, comply with Article 13.

When a notification is submitted, the following requirements shall be fulfilled:

1. notification and movement documents:

Notification shall be effected by means of the following documents:

- (a) the notification document set out in Annex IA; and
- (b) the movement document set out in Annex IB.

In submitting a notification, the notifier shall fill in the notification document and, where relevant, the movement document.

When the notifier is not the original producer in accordance with point 15(a)(i) of Article 2, the notifier shall ensure that this producer or one of the persons indicated in point 15(a)(ii) or (iii) of Article 2, where practicable, also signs the notification document set out in Annex IA.

The notification document and the movement document shall be issued to the notifier by the competent authority of dispatch;

2. information and documentation in the notification and movement documents:

The notifier shall supply on, or annex to, the notification document information and documentation as listed in Annex II, Part 1. The notifier shall supply on, or annex to, the movement document information and documentation referred to in Annex II, Part 2, to the extent possible at the time of notification.

A notification shall be considered properly carried out when the competent authority of dispatch is satisfied that the notification document and movement document have been completed in accordance with the first subparagraph;

3. additional information and documentation:

If requested by any of the competent authorities concerned, the notifier shall supply additional information and documentation. A list of additional information and documentation that may be requested is set out in Annex II, Part 3.

A notification shall be considered properly completed when the competent authority of destination is satisfied that the notification document and the movement document have been completed and that the information and documentation as listed in Annex II,

Parts 1 and 2, as well as any additional information and documentation requested in accordance with this paragraph and as listed in Annex II, Part 3, have been supplied by the notifier;

4. conclusion of a contract between the notifier and the consignee:

The notifier shall conclude a contract as described in Article 5 with the consignee for the recovery or disposal of the notified waste.

Evidence of this contract or a declaration certifying its existence in accordance with Annex IA shall be supplied to the competent authorities involved at the time of notification. A copy of the contract or such evidence to the satisfaction of the competent authority concerned shall be provided by the notifier or consignee upon request by the competent authority;

5. establishment of a financial guarantee or equivalent insurance:

A financial guarantee or equivalent insurance shall be established as described in Article 6. A declaration to this effect shall be made by the notifier through completion of the appropriate part of the notification document set out in Annex IA.

The financial guarantee or equivalent insurance (or if the competent authority so allows, evidence of that guarantee or insurance or a declaration certifying its existence) shall be supplied as part of the notification document at the time of notification or, if the competent authority so allows, pursuant to national legislation, at such time before the shipment starts;

6. Coverage of the notification:

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

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

Only one waste identification code shall be covered for each notification, except for:

- (a) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA. In this case, only one type of waste shall be specified;
- (b) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA. In this case, the code for each fraction of the waste shall be specified in order of importance.

Article 5

Contract

1 All shipments of waste for which notification is required shall be subject to the requirement of the conclusion of a contract between the notifier and the consignee for the recovery or disposal of the notified waste.

2 The contract shall be concluded and effective at the time of notification and for the duration of the shipment until a certificate is issued in accordance with Article 15(e), Article 16(e) or, where appropriate, Article 15(d).

- 3 The contract shall include obligations:
- a on the notifier to take the waste back if the shipment or the recovery or disposal has not been completed as intended or if it has been effected as an illegal shipment, in accordance with Article 22 and Article 24(2);
 - b on the consignee to recover or dispose of the waste if it has been effected as an illegal shipment, in accordance with Article 24(3); and
 - 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.
- 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).
- 5 If the waste is shipped between two establishments under the control of the same legal entity, the contract may be replaced by a declaration by the entity in question undertaking to recover or dispose of the notified waste.

Article 6

Financial guarantee

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

However, in cases of import into the Community, the competent authority of destination in the Community shall review the amount of cover and, if necessary, approve an additional financial guarantee or equivalent insurance.

5 The financial guarantee or equivalent insurance shall be valid for and cover a notified shipment and completion of recovery or disposal of the notified waste.

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

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 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.

7 The competent authority within the Community which has approved the financial guarantee or equivalent insurance shall have access thereto and shall make use of the funding, including for the purpose of payments to other authorities concerned, in order to meet the obligations arising in accordance with Articles 23 and 25.

8 In the case of a general notification pursuant to Article 13, a financial guarantee or equivalent insurance covering parts of the general notification may be established, instead of one covering the entire general notification. In such cases, the financial guarantee or equivalent insurance shall apply to the shipment at the latest when the notified shipment it covers starts.

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*.

9 Member States shall inform the Commission of provisions of national law adopted pursuant to this Article.

Article 7

Transmission of the notification by the competent authority of dispatch

1 Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4, the competent authority of dispatch shall retain a copy of the notification and transmit the notification to the competent authority of destination with copies to any competent authority(ies) of transit, and shall inform the notifier of the transmission. This shall be done within three working days of receipt of the notification.

2 If the notification is not properly carried out, the competent authority of dispatch shall request information and documentation from the notifier in accordance with the second subparagraph, point 2 of Article 4.

This shall be done within three working days of receipt of the notification.

In such cases the competent authority of dispatch shall have three working days following the receipt of the information and/or documentation requested in which to comply with paragraph 1.

3 Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4, the competent authority of dispatch may decide, within three working days, not to proceed with the notification, if it has objections to the shipment in accordance with Articles 11 and 12.

It shall immediately inform the notifier of its decision and of these objections.

4 If, within 30 days of receipt of the notification, the competent authority of dispatch has not transmitted the notification as required under paragraph 1, it shall provide the notifier with a reasoned explanation upon his/her request. This shall not apply when the request for information, referred to in paragraph 2, has not been complied with.

Article 8

Requests for information and documentation by the competent authorities concerned and acknowledgement by the competent authority of destination

1 Following the transmission of the notification by the competent authority of dispatch, if any of the competent authorities concerned considers that additional information and documentation is required as referred to in the second subparagraph, point 3 of Article 4, it shall request such information and documentation from the notifier and inform the other competent authorities of such request. This shall be done within three working days of receipt of the notification. In such cases the competent authorities concerned shall have three working days following the receipt of the information and documentation requested in which to inform the competent authority of destination.

2 When the competent authority of destination considers that the notification has been properly completed, as described in the second subparagraph, point 3 of Article 4, it shall send an acknowledgement to the notifier and copies to the other competent authorities concerned. This shall be done within three working days of receipt of the properly completed notification.

3 If, within 30 days of receipt of the notification, the competent authority of destination has not acknowledged the notification as required under paragraph 2, it shall provide the notifier, upon his/her request, with a reasoned explanation.

Article 9

Consents by the competent authorities of destination, dispatch and transit and time periods for transport, recovery or disposal

1 The competent authorities of destination, dispatch and transit shall have 30 days following the date of transmission of the acknowledgement by the competent authority of destination in accordance with Article 8 in which to take one of the following duly reasoned decisions in writing as regards the notified shipment:

- a consent without conditions;
- b consent with conditions in accordance with Article 10; or
- c objections in accordance with Articles 11 and 12.

Tacit consent by the competent authority of transit may be assumed if no objection is lodged within the said 30-day time limit.

2 The competent authorities of destination, dispatch and, where appropriate, transit shall transmit their decision and the reasons therefor to the notifier in writing within the 30-day time limit referred to in paragraph 1, with copies to the other competent authorities concerned.

3 The competent authorities of destination, dispatch and, where appropriate, transit shall signify their written consent by appropriately stamping, signing and dating the notification document or their copies thereof.

4 A written consent to a planned shipment shall expire one calendar year after it is issued or on such later date as is indicated in the notification document. However, this shall not apply if a shorter period is indicated by the competent authorities concerned.

5 Tacit consent to a planned shipment shall expire one calendar year after the expiry of the 30-day time limit referred to in paragraph 1.

6 The planned shipment may take place only after fulfilment of the requirements of Article 16(a) and (b) and during the period of validity of the tacit or written consents of all competent authorities.

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.

8 The competent authorities concerned shall withdraw their consent when they have knowledge that:

- a the composition of the waste is not as notified; or
- b the conditions imposed on the shipment are not respected; or
- c the waste is not recovered or disposed of in compliance with the permit of the facility that performs the said operation; or
- d the waste is to be, or has been, shipped, recovered or disposed of in a way that is not in accordance with the information supplied on, or annexed to, the notification and movement documents.

9 Any withdrawal of consent shall be transmitted by means of official notice to the notifier with copies to the other competent authorities concerned and to the consignee.

Article 10

Conditions for a shipment

1 The competent authorities of dispatch, destination and transit may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, lay down conditions in connection with their consent to a notified shipment. Such conditions may be based on one or more of the reasons specified in either Article 11 or Article 12.

2 The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in paragraph 1, lay down conditions in respect of the transport of waste within their jurisdiction. Such transport conditions shall 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, in particular relevant international agreements.

3 The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in paragraph 1, lay down a condition that their consent is to be considered withdrawn if the financial guarantee or equivalent insurance is not applicable at the latest when the notified shipment starts, as required by Article 6(3).

4 Conditions shall be transmitted to the notifier in writing by the competent authority that lays them down, with copies to the competent authorities concerned.

Conditions shall be supplied on, or annexed to, the notification document by the relevant competent authority.

5 The competent authority of destination may also, within the 30-day time limit referred to in paragraph 1, lay down a condition that the facility which receives the waste shall keep a regular record of inputs, outputs and/or balances for wastes and the related recovery or disposal operations as contained in the notification, and for the period of validity of the notification. Such records shall be signed by a person legally responsible for the facility and be sent to the competent authority of destination within one month of completion of the notified recovery or disposal operation.

Article 11

Objections to shipments of waste destined for disposal

1 Where a notification is submitted regarding a planned shipment of waste destined for disposal, the competent authorities of destination and dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, raise reasoned objections based on one or more of the following grounds and in accordance with the Treaty:

- a that the planned shipment or disposal would not be in accordance with measures taken to implement the principles of proximity, priority for recovery and self-sufficiency at Community and national levels in accordance with Directive 2006/12/EC, to prohibit generally or partially or to object systematically to shipments of waste; or
- b that the planned shipment or disposal would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the objecting country; or
- c that the notifier or the consignee has previously been convicted of illegal shipment or some other illegal act in relation to environmental protection. In this case, the competent authorities of dispatch and destination may refuse all shipments involving the person in question in accordance with national legislation; or
- d that the notifier or the facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or
- e that the Member State wishes to exercise its right pursuant to Article 4(1) of the Basel Convention to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention; or
- f that the planned shipment or disposal conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or the Community; or
- g that the planned shipment or disposal is not in accordance with Directive 2006/12/EC, in particular Articles 5 and 7 thereof, while taking into account geographical circumstances or the need for specialised installations for certain types of waste:
 - (i) in order to implement the principle of self-sufficiency at Community and national levels, or
 - (ii) in cases where the specialised installation has to dispose of waste from a nearer source and the competent authority has given priority to this waste, or
 - (iii) in order to ensure that shipments are in accordance with waste management plans, or

- h that the waste will be treated in a facility which is covered by Directive 96/61/EC, but which does not apply best available techniques as defined in Article 9(4) of that Directive in compliance with the permit of the facility; or
- i that the waste is mixed municipal waste collected from private households (waste entry 20 03 01); or
- j that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to disposal operations established in Community legislation (also in cases where temporary derogations are granted).

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).

3 In the case of hazardous waste produced in a Member State of dispatch in such a small quantity overall per year that the provision of new specialised disposal installations within that Member State would be uneconomic, paragraph 1(a) shall not apply.

The competent authority of destination shall cooperate with the competent authority of dispatch which considers that this paragraph and not paragraph 1(a) should apply, with a view to resolving the issue bilaterally.

If there is no satisfactory solution, either Member State may refer the matter to the Commission. The Commission shall then determine the issue in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC.

4 If, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.

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.

6 Measures taken by Member States in accordance with paragraph 1(a), to prohibit generally or partially or to object systematically to shipments of waste destined for disposal, or in accordance with paragraph 1(e), shall immediately be notified to the Commission which shall inform the other Member States.

Article 12

Objections to shipments of waste destined for recovery

1 Where a notification is submitted regarding a planned shipment of waste destined for recovery, the competent authorities of destination and dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, raise reasoned objections based on one or more of the following grounds and in accordance with the Treaty:

- a that the planned shipment or recovery would not be in accordance with Directive 2006/12/EC, in particular Articles 3, 4, 7 and 10 thereof; or
- b that the planned shipment or recovery would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the objecting country; or

- c that the planned shipment or recovery would not be in accordance with national legislation in the country of dispatch relating to the recovery of waste, including where the planned shipment would concern waste destined for recovery in a facility which has lower treatment standards for the particular waste than those of the country of dispatch, respecting the need to ensure the proper functioning of the internal market;

This shall not apply if:

- (i) there is corresponding Community legislation, in particular related to waste, and if requirements that are at least as stringent as those laid down in the Community legislation have been introduced in national legislation transposing such Community legislation,
 - (ii) the recovery operation in the country of destination takes place under conditions that are broadly equivalent to those prescribed in the national legislation of the country of dispatch,
 - (iii) the national legislation in the country of dispatch, other than that covered by (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 provision of information in the field of technical standards and regulations and of rules on Information Society services⁽¹⁾, where required by that Directive, or
- d that the notifier or the consignee has previously been convicted of illegal shipment or some other illegal act in relation to environmental protection. In this case, the competent authorities of dispatch and destination may refuse all shipments involving the person in question in accordance with national legislation; or
 - e that the notifier or the facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or
 - f that the planned shipment or recovery conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or the Community; or
 - g that the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction do not justify the recovery, having regard to economic and/or environmental considerations; or
 - h that the waste shipped is destined for disposal and not for recovery; or
 - i that the waste will be treated in a facility which is covered by Directive 96/61/EC, but which does not apply best available techniques as defined in Article 9(4) of that Directive in compliance with the permit of the facility; or
 - j that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to recovery operations, or legally binding recovery or recycling obligations established in Community legislation (also in cases where temporary derogations are granted); or
 - k that the waste concerned will not be treated in accordance with waste management plans drawn up pursuant to Article 7 of Directive 2006/12/EC with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Community legislation.

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).

3 If, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.

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.

5 Objections raised by competent authorities in accordance with paragraph 1(c) shall be reported by Member States to the Commission in accordance with Article 51.

6 The Member State of dispatch shall inform the Commission and the other Member States of the national legislation on which objections raised by competent authorities in accordance with paragraph 1(c) may be based, and shall state to which waste and waste recovery operations those objections apply, before such legislation is invoked in order to raise reasoned objections.

Article 13

General notification

1 The notifier may submit a general notification to cover several shipments if, in the case of each shipment:

- a the waste has essentially similar physical and chemical characteristics; and
- b the waste is shipped to the same consignee and the same facility; and
- c the route of the shipment as indicated in the notification document is the same.

2 If, owing to unforeseen circumstances, the same route cannot be followed, the notifier shall inform the competent authorities concerned as soon as possible and, if possible, before the shipment starts if the need for modification is already known.

Where the route modification is known before the shipment starts and involves competent authorities other than those concerned by the general notification, the general notification may not be used and a new notification shall be submitted.

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 Article 4.

Article 14

Pre-consented recovery facilities

1 The competent authorities of destination which have jurisdiction over specific recovery facilities may decide to issue pre-consents to such facilities.

Such decisions shall be limited to a specific period and may be revoked at any time.

2 In the case of a general notification submitted in accordance with Article 13, the period of validity of the consent referred to in Article 9(4) and (5) may be extended to up to three years by the competent authority of destination in agreement with the other competent authorities concerned.

3 Competent authorities which decide to issue a pre-consent to a facility in accordance with paragraphs 1 and 2 shall inform the Commission and, where appropriate, the OECD Secretariat of:

- a the name, registration number and address of the recovery facility;
- b the description of technologies employed, including R-code(s);
- c the wastes as listed in Annexes IV and IVA or the wastes to which the decision applies;
- d the total pre-consented quantity;
- e the period of validity;
- f any change in the pre-consent;
- g any change in the information notified; and
- h any revocation of the pre-consent.

For this purpose the form set out in Annex VI shall be used.

4 By way of derogation from Articles 9, 10 and 12, the consent given in accordance with Article 9, conditions imposed in accordance with Article 10 or objections raised in accordance with Article 12 by the competent authorities concerned shall be subject to a time limit of seven working days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.

5 Notwithstanding paragraph 4, the competent authority of dispatch may decide that more time is needed in order to receive further information or documentation from the notifier.

In such cases, the competent authority shall, within seven working days, inform the notifier in writing with copies to the other competent authorities concerned.

The total time needed shall not exceed 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.

Article 15

Additional provisions regarding interim recovery and disposal operations

Shipments of waste destined for interim recovery or disposal operations shall be subject to the following additional provisions:

- (a) Where a shipment of waste is destined for an interim recovery or disposal operation, all the facilities where subsequent interim as well as non-interim recovery and disposal operations are envisaged shall also be indicated in the notification document in addition to the initial interim recovery or disposal operation.
- (b) The competent authorities of dispatch and destination may give their consent to a shipment of waste destined for an interim recovery or disposal operation only if there are no grounds for objection, in accordance with Articles 11 or 12, to the shipment(s) of waste to the facilities performing any subsequent interim or non-interim recovery or disposal operations.
- (c) Within three days of the receipt of the waste by the facility which carries out this interim recovery or disposal operation, that facility shall provide confirmation in writing that the waste has been received.

This confirmation shall be supplied on, or annexed to, the movement document. The said facility shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.

- (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.

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

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

- (e) When a recovery or disposal facility which carries out an interim recovery or disposal operation delivers the waste for any subsequent interim or non-interim recovery or disposal operation to a facility located in the country of destination, it shall obtain as soon as possible but no later than one calendar year following delivery of the waste, or a shorter period in accordance with Article 9(7), a certificate from that facility that the subsequent non-interim recovery or disposal operation has been completed.

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

- (f) When a delivery as described in subparagraph (e) is made to a facility respectively located:
- (i) in the initial country of dispatch or in another Member State, a new notification shall be required in accordance with the provisions of this Title, or
 - (ii) in a third country, a new notification shall be required in accordance with the provisions of this Regulation, with the addition that the provisions concerning the competent authorities concerned shall also apply to the initial competent authority of the initial country of dispatch.

Article 16

Requirements following consent to a shipment

After consent has been given to a notified shipment by the competent authorities involved, all undertakings involved shall complete the movement document, or, in the case of a general notification, the movement documents at the points indicated, sign it or them and retain a copy or copies. The following requirements shall be fulfilled:

- (a) Completion of the movement document by the notifier: once the notifier has received consent from the competent authorities of dispatch, destination and transit or, in relation to the competent authority of transit, can assume tacit consent, he/she shall insert the actual date of shipment and otherwise complete the movement document to the extent possible.
- (b) Prior information regarding actual start of shipment: the notifier shall send signed copies of the then completed movement document, as described in point (a), to the

competent authorities concerned and to the consignee at least three working days before the shipment starts.

- (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.
- (d) Written confirmation of receipt of the waste by the facility: within three days of 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.

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

Article 17

Changes in the shipment after consent

1 If any essential change is made to the details and/or conditions of the consented shipment, including changes in the intended quantity, route, routing, date of shipment or carrier, the notifier shall inform the competent authorities concerned and the consignee immediately and, where possible, before the shipment starts.

2 In such cases a new notification shall be submitted, unless all the competent authorities concerned consider that the proposed changes do not require a new notification.

3 Where such changes involve competent authorities other than those concerned in the original notification, a new notification shall be submitted.

CHAPTER 2

General information requirements

Article 18

Waste to be accompanied by certain information

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:

- a In order to assist the tracking of shipments of such waste, the person under the jurisdiction of the country of dispatch who arranges the shipment shall ensure that the waste is accompanied by the document contained in Annex VII.
- b The document contained in Annex VII shall be signed by the person who arranges the shipment before the shipment takes place and shall be signed by the recovery facility or the laboratory and the consignee when the waste in question is received.

2 The contract referred to in Annex VII between the person who arranges the shipment and the consignee for recovery of the waste shall be effective when the shipment starts and shall include an obligation, where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, on the person who arranges the shipment or, where that person is not in a position to complete the shipment of waste or its recovery (for example, is insolvent), on the consignee, to:

- a take the waste back or ensure its recovery in an alternative way; and
- b provide, if necessary, for its storage in the meantime.

The person who arranges the shipment or the consignee shall provide a copy of the contract upon request by the competent authority concerned.

3 For inspection, enforcement, planning and statistical purposes, Member States may in accordance with national legislation require information as referred to in paragraph 1 on shipments covered by this Article.

4 The information referred to in paragraph 1 shall be treated as confidential where this is required by Community and national legislation.

CHAPTER 3

General requirements

Article 19

Prohibition on mixing waste during shipment

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

Article 20

Keeping of documents and information

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.

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.

Article 21

Public access to notifications

The competent authorities of dispatch or destination may make publicly available by appropriate means, such as the Internet, information on notifications of shipments they have consented to, where such information is not confidential under national or Community legislation.

CHAPTER 4

Take-back obligations

Article 22

Take-back when a shipment cannot be completed as intended

1 Where any of the competent authorities concerned becomes aware that a shipment of waste, including its recovery or disposal, cannot be completed as intended in accordance with the terms of the notification and movement documents and/or contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5, it shall immediately inform the competent authority of dispatch. Where a recovery or disposal facility rejects a shipment received, it shall immediately inform the competent authority of destination.

2 The competent authority of dispatch shall ensure that, except in cases referred to in paragraph 3, the waste in question is taken back to its area of jurisdiction or elsewhere within the country of dispatch by the notifier as identified in accordance with the ranking established in point 15 of Article 2, or, if impracticable, by that competent authority itself or by a natural or legal person on its behalf.

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

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

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

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

A new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

No competent authority shall oppose or object to the return of waste from a shipment that cannot be completed or to the related recovery and disposal operation.

5 In cases of alternative arrangements outside the initial country of destination as referred to in paragraph 3, a new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

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

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

7 If no new notification is to be submitted in accordance with paragraphs 4 or 6, a new movement document shall be completed in accordance with Article 15 or Article 16 by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

If a new notification is submitted by the initial competent authority of dispatch in accordance with paragraphs 4 or 5, a new financial guarantee or equivalent insurance shall not be required.

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 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 24(3) and Article 25(2) shall apply.

9 Where waste from a shipment which cannot be completed, including its recovery or disposal, is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.

Article 23

Costs for take-back when a shipment cannot be completed

1 Costs arising from the return of waste from a shipment that cannot be completed, including costs of its transport, recovery or disposal pursuant to Article 22(2) or (3) and, from the date on which the competent authority of dispatch becomes aware that a shipment of waste or its recovery or disposal cannot be completed, storage costs pursuant to Article 22(9) shall be charged:

- a to the notifier as identified in accordance with the ranking established in point 15 of Article 2; or, if impracticable;
- b to other natural or legal persons as appropriate; or, if impracticable;
- c to the competent authority of dispatch; or, if impracticable;
- d as otherwise agreed between the competent authorities concerned.

2 This Article shall be without prejudice to Community and national provisions concerning liability.

Article 24

Take-back when a shipment is illegal

1 Where a competent authority discovers a shipment that it considers to be an illegal shipment, it shall immediately inform the other competent authorities concerned.

2 If an illegal shipment is the responsibility of the notifier, the competent authority of dispatch shall ensure that the waste in question is:

- a taken back by the notifier de facto; or, if no notification has been submitted;
- b taken back by the notifier de jure; or, if impracticable;
- c taken back by the competent authority of dispatch itself or by a natural or legal person on its behalf; or, if impracticable;
- d alternatively recovered or disposed of in the country of destination or dispatch by the competent authority of dispatch itself or by a natural or legal person on its behalf; or, if impracticable;
- e alternatively recovered or disposed of in another country by the competent authority of dispatch itself or by a natural or legal person on its behalf if all the competent authorities concerned agree.

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

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

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

No competent authority shall oppose or object to the return of waste of an illegal shipment. In the case of alternative arrangements as referred to in (d) and (e) by the competent authority of dispatch, a new notification shall be submitted by the initial competent authority of dispatch or by a natural or legal person on its behalf unless the competent authorities concerned agree that a duly reasoned request by that authority is sufficient.

3 If an illegal shipment is the responsibility of the consignee the competent authority of destination shall ensure that the waste in question is recovered or disposed of in an environmentally sound manner:

- a by the consignee; or, if impracticable,
- b by the competent authority itself or by a natural or legal person on its behalf.

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

To this end, the competent authorities concerned shall cooperate, as necessary, in the recovery or disposal of the waste.

4 If no new notification is to be submitted, a new movement document shall be completed in accordance with Article 15 or 16 by the person responsible for take-back or, if impracticable, by the initial competent authority of dispatch.

If a new notification is submitted by the initial competent authority of dispatch, a new financial guarantee or equivalent insurance shall not be required.

5 In particular in cases where responsibility for the illegal shipment cannot be imputed to either the notifier or the consignee, the competent authorities concerned shall cooperate to ensure that the waste in question is recovered or disposed of.

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 25(2) shall apply.

7 Where the waste of an illegal shipment is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.

8 Articles 34 and 36 shall not apply in cases where illegal shipments are returned to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those Articles.

9 In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.

10 This Article shall be without prejudice to Community and national provisions concerning liability.

Article 25

Costs for take-back when a shipment is illegal

1 Costs arising from the take-back of waste of an illegal shipment, including costs of its transport, recovery or disposal pursuant to Article 24(2) and, from the date on which the competent authority of dispatch becomes aware that a shipment is illegal, storage costs pursuant to Article 24(7), shall be charged to:

- a the notifier de facto, as identified in accordance with the ranking established in point 15 of Article 2; or, if no notification has been submitted;
- b the notifier de jure or other natural or legal persons as appropriate; or, if impracticable;
- c the competent authority of dispatch.

2 Costs arising from recovery or disposal pursuant to Article 24(3), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:

- a the consignee; or, if impracticable;
- b the competent authority of destination.

3 Costs arising from recovery or disposal pursuant to Article 24(5), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:

- a the notifier, as identified in accordance with the ranking established in point 15 of Article 2, and/or the consignee, depending upon the decision by the competent authorities involved; or, if impracticable,
- b other natural or legal persons as appropriate; or, if impracticable,
- c the competent authorities of dispatch and destination.

4 In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.

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

CHAPTER 5

General administrative provisions

Article 26

Format of the communications

- 1 The information and documents listed below may be submitted by post:
 - a notification of a planned shipment pursuant to Articles 4 and 13;
 - b request for information and documentation pursuant to Articles 4, 7 and 8;
 - c submission of information and documentation pursuant to Articles 4, 7 and 8;
 - d written consent to a notified shipment pursuant to Article 9;
 - e conditions for a shipment pursuant to Article 10;
 - f objections to a shipment pursuant to Articles 11 and 12;
 - g information on decisions to issue pre-consents to specific recovery facilities pursuant to Article 14(3);
 - h written confirmation of receipt of the waste pursuant to Articles 15 and 16;
 - i certificate for recovery or disposal of the waste pursuant to Articles 15 and 16;
 - j prior information regarding actual start of the shipment pursuant to Article 16;
 - k information on changes in the shipment after consent pursuant to Article 17; and
 - l written consents and movement documents to be sent pursuant to Titles IV, V and VI.
- 2 Subject to the agreement of the competent authorities concerned and the notifier, the documents referred to in paragraph 1 may alternatively be submitted using any of the following methods of communication:
 - a by fax; or
 - b by fax followed by post; or
 - c by e-mail with digital signature. In this case, any stamp or signature required shall be replaced by the digital signature; or
 - d by e-mail without digital signature followed by post.
- 3 The documents to accompany each transport in accordance with Article 16(c) and Article 18 may be in an electronic form with digital signatures if they can be made readable at any time during the transport and if this is acceptable to the competent authorities concerned.
- 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⁽²⁾, 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.

Article 27

Language

1 Any notification, information, documentation or other communication submitted pursuant to the provisions of this Title shall be supplied in a language acceptable to the competent authorities concerned.

2 The notifier shall provide the competent authorities concerned with authorised translation(s) into a language which is acceptable to them, should they so request.

Article 28

Disagreement on classification issues

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

2 If the competent authorities of dispatch and of destination cannot agree on the classification of the notified waste as being listed in Annex III, IIIA, IIIB or IV, the waste shall be regarded as listed in Annex IV.

3 If the competent authorities of dispatch and destination cannot agree on the classification of the waste treatment operation notified as being recovery or disposal, the provisions regarding disposal shall apply.

4 Paragraphs 1 to 3 shall apply only for the purposes of this Regulation, and shall be without prejudice to rights of interested parties to resolve any dispute related to these questions before a court of law or tribunal.

Article 29

Administrative costs

Appropriate and proportionate administrative costs of implementing the notification and supervision procedures and usual costs of appropriate analyses and inspections may be charged to the notifier.

Article 30

Border-area agreements

1 In exceptional cases, and if the specific geographical or demographical situation warrants such a step, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned.

2 Such bilateral agreements may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State.

3 Member States may also conclude such agreements with countries that are Parties to the Agreement on the European Economic Area.

4 Such agreements shall be notified to the Commission before they take effect.

CHAPTER 6

Shipments within the Community with transit via third countries

Article 31

Shipments of waste destined for disposal

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:

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

Article 32

Shipments of waste destined for recovery

1 When a shipment of waste takes place within the Community with transit via one or more third countries to which the OECD Decision does not apply, and the waste is destined for recovery, Article 31 shall apply.

2 When a shipment of waste takes place within the Community, including shipments between localities in the same Member State, with transit via one or more third countries to which the OECD Decision applies, and the waste is destined for recovery, the consent referred to in Article 9 may be provided tacitly, and if no objection has been lodged or no conditions have been specified, the shipment may start 30 days after the date of transmission of the acknowledgement by the competent authority of destination in accordance with Article 8.

Status: This is the original version (as it was originally adopted).

- (1) [OJ L 204, 21.7.1998, p. 37](#). Directive as last amended by the 2003 Act of Accession.
- (2) [OJ L 13, 19.1.2000, p. 12](#).