

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**

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.