

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

TITLE IV

EXPORTS FROM THE COMMUNITY TO THIRD COUNTRIES

CHAPTER 1

Exports of waste for disposal

Article 34

Export prohibited except to EFTA countries

- 1 All exports of waste from the Community destined for disposal shall be prohibited.
- 2 The prohibition in paragraph 1 shall not apply to exports of waste destined for disposal in EFTA countries which are also Parties to the Basel Convention.
- 3 However, exports of waste for disposal to an EFTA country Party to the Basel Convention shall also be prohibited:
 - a where the EFTA country prohibits imports of such waste; or
 - b if the competent authority of dispatch has reason to believe that the waste will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of destination concerned.
- 4 This provision shall be without prejudice to the take-back obligations as laid down in Articles 22 and 24.

Article 35

Procedures when exporting to EFTA countries

- 1 Where waste is exported from the Community and destined for disposal in EFTA countries Parties to the Basel Convention, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2 and 3.
- 2 The following adaptations shall apply:
 - a the competent authority of transit outside the Community shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and
 - b the competent authority of dispatch in the Community shall take the decision to consent to the shipment as referred to in Article 9 only after having received written consent from the competent authority of destination and, where appropriate, the tacit or written consent of the competent authority of transit outside the Community, and not earlier than

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61 days following the date of transmission of the acknowledgement by the competent authority of transit. The competent authority of dispatch may take the decision before the conclusion of the 61-day time limit if it has the written consent of the other competent authorities concerned.

- 3 The following additional provisions shall apply:
- a the competent authority of transit in the Community shall acknowledge the receipt of the notification to the notifier;
 - b the competent authorities of dispatch and, where appropriate, transit in the Community shall send a stamped copy of their decisions to consent to the shipment to the customs office of export and to the customs office of exit from the Community;
 - c a copy of the movement document shall be delivered by the carrier to the customs office of export and the customs office of exit from the Community;
 - d as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority of dispatch in the Community stating that the waste has left the Community;
 - e if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination; and
 - f the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
 - (i) if a facility issues an incorrect certificate of disposal with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner,
 - (ii) within three days of receipt of the waste for disposal, the facility shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint iii, to the notifier and the competent authorities concerned, and
 - (iii) as soon as possible but no later than 30 days after completion of disposal, and no later than one calendar year following the receipt of the waste the facility shall, under its responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.
- 4 The shipment may take place only if:
- a the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit outside the Community and if the conditions laid down are met;
 - b a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
 - c a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
 - d environmentally sound management, as referred to in Article 49, is ensured.
- 5 Where waste is exported, it shall be destined for disposal operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

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6 If a customs office of export or a customs office of exit from the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:

- a without delay inform the competent authority of dispatch in the Community; and
- b ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

CHAPTER 2

Exports of waste for recovery

Section 1

Exports to non-OECD Decision countries

Article 36

Exports prohibition

1 Exports from the Community of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:

- a wastes listed as hazardous in Annex V;
- b wastes listed in Annex V, Part 3;
- c hazardous wastes not classified under one single entry in Annex V;
- d mixtures of hazardous wastes and mixtures of hazardous wastes with non-hazardous wastes not classified under one single entry in Annex V;
- e wastes that the country of destination has notified to be hazardous under Article 3 of the Basel Convention;
- f wastes the import of which has been prohibited by the country of destination; or
- g wastes which the competent authority of dispatch has reason to believe will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of destination concerned.

2 This provision shall be without prejudice to the take-back obligations as set out in Articles 22 and 24.

3 Member States may, in exceptional cases, adopt provisions to determine, on the basis of documentary evidence provided in an appropriate way by the notifier, that a specific hazardous waste listed in Annex V is excluded from the export prohibition if it does not display any of the properties listed in Annex III to Directive 91/689/EEC, taking into account, as regards the properties H3 to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste⁽¹⁾.

4 The fact that waste is not listed as hazardous in Annex V, or that it is listed in Annex V, Part 1, List B, shall not preclude, in exceptional cases, characterisation of such waste as hazardous and therefore subject to the export prohibition if it displays any of the properties

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listed in Annex III to Directive 91/689/EEC, taking into account, as regards the properties H3 to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC, as provided for in Article 1(4), second indent, of Directive 91/689/EEC and in the introductory paragraph of Annex III to this Regulation.

5 In the cases referred to in paragraphs 3 and 4, the Member State concerned shall inform the envisaged country of destination prior to taking a decision. Member States shall notify such cases to the Commission before the end of each calendar year. The Commission shall forward the information to all Member States and to the Secretariat of the Basel Convention. On the basis of the information provided, the Commission may make comments and, where appropriate, adapt Annex V in accordance with Article 58.

Article 37

Procedures when exporting waste listed in Annex III or IIIA

1 In the case of waste which is listed in Annex III or IIIA and the export of which is not prohibited under Article 36, the Commission shall, within 20 days of the entry into force of this Regulation, send a written request to each country to which the OECD Decision does not apply, seeking:

- (i) confirmation in writing that the waste may be exported from the Community for recovery in that country, and
- (ii) an indication as to which control procedure, if any, would be followed in the country of destination.

Each country to which the OECD Decision does not apply shall be given the following options:

- (a) a prohibition; or
- (b) a procedure of prior written notification and consent as described in Article 35; or
- (c) no control in the country of destination.

2 Before the date of application of this Regulation, the Commission shall adopt a Regulation taking into account all replies received pursuant to paragraph 1 and shall inform the Committee established pursuant to Article 18 of Directive 2006/12/EC.

If a country has not issued a confirmation as referred to in paragraph 1 or if a country for any reason has not been contacted, paragraph 1(b) shall apply.

The Commission shall periodically update the Regulation adopted.

3 If a country indicates in its reply that certain shipments of waste are not subject to any control, Article 18 shall apply *mutatis mutandis* to such shipments.

4 Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

5 In the case of a shipment of waste not classified under one single entry in Annex III or a shipment of mixtures of wastes not classified under one single entry in Annex III or IIIA or a shipment of waste classified in Annex IIIB, and provided that the export is not prohibited pursuant to Article 36, paragraph 1(b) of this Article shall apply.

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Section 2

Exports to OECD-Decision countries

Article 38

Exports of waste listed in Annexes III, IIIA, IIIB, IV and IVA

1 Where waste listed in Annexes III, IIIA, IIIB, IV and IVA, waste not classified or mixtures of wastes not classified under one single entry in either Annex III, IV or IVA are exported from the Community and destined for recovery in countries to which the OECD Decision applies, with or without transit through countries to which the OECD Decision applies, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2, 3 and 5.

2 The following adaptations shall apply:

- a mixtures of wastes listed in Annex IIIA destined for an interim operation shall be subject to the procedure of prior written notification and consent if any subsequent interim or non-interim recovery or disposal operation is to take place in a country to which the OECD Decision does not apply;
- b waste listed in Annex IIIB shall be subject to the procedure of prior written notification and consent;
- c the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of destination outside the Community.

3 As regards exports of waste listed in Annexes IV and IVA, the following additional provisions shall apply:

- a the competent authorities of dispatch and, where appropriate, transit in the Community shall send a stamped copy of their decisions to consent to the shipment to the customs office of export and to the customs office of exit from the Community;
- b a copy of the movement document shall be delivered by the carrier to the customs office of export and customs office of exit from the Community;
- c as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority of dispatch in the Community stating that the waste has left the Community;
- d if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination; and
- e the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
 - (i) if a facility issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner,
 - (ii) within three days of receipt of the waste for recovery, the facility shall send signed copies of the completed movement document, except for the certificate of recovery referred to in subpoint iii, to the notifier and the competent authorities concerned, and

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

4 The shipment may take place only if:

- a the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or, if tacit consent from the competent authorities of destination and transit outside the Community is provided or can be assumed and if the conditions laid down are met;
- b Article 35(4)(b), (c) and (d) is complied with.

5 If an export as described in paragraph 1 of waste listed in Annexes IV and IVA is in transit through a country to which the OECD Decision does not apply, the following adaptations shall apply:

- a the competent authority of transit to which the OECD Decision does not apply shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and
- b the competent authority of dispatch in the Community shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from that competent authority of transit to which the OECD Decision does not apply, and not earlier than 61 days following the date of transmission of the acknowledgement of the competent authority of transit. The competent authority of dispatch may take the decision before the conclusion of the 61-day time limit if it has the written consent of the other competent authorities concerned.

6 Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

7 If a customs office of export or a customs office of exit from the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:

- a without delay inform the competent authority of dispatch in the Community; and
- b ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

CHAPTER 3

General provisions

Article 39

Exports to the Antarctic

Exports of waste from the Community to the Antarctic shall be prohibited.

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Article 40

Exports to overseas countries or territories

1 Exports from the Community of waste destined for disposal in overseas countries or territories shall be prohibited.

2 As regards exports of waste destined for recovery in overseas countries or territories, the prohibition set out in Article 36 shall apply *mutatis mutandis*.

3 As regards exports of waste destined for recovery in overseas countries or territories not covered by the prohibition set out in paragraph 2, the provisions of Title II shall apply *mutatis mutandis*.

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- (1) [OJ L 226, 6.9.2000, p. 3](#). Decision as last amended by Council Decision 2001/573/EC ([OJ L 203, 28.7.2001, p. 18](#)).

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