



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.04.1995

COM(95) 143 final

95/0107 (SYN)

COMMUNICATION FROM THE COMMISSION

Proposal for a Council Regulation amending Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community to prohibit all exports of hazardous wastes destined for recovery operations from OECD to non-OECD countries.

Proposal for a

COUNCIL REGULATION (EC)

**amending Regulation (EEC) N° 259/93 on
the supervision and control of shipments of waste
within, into and out of the European Community**

(presented by the Commission)

COMMUNICATION FROM THE COMMISSION

Subject: **Proposal for a Council regulation amending Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community to prohibit all exports of hazardous wastes destined for recovery operations from OECD to non-OECD countries.**

Introduction

1. The attached proposed Regulation amends Article 16, paragraph 1 of Council Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community to prohibit exports of hazardous wastes destined for recovery operations from OECD to non-OECD countries as of 1 January 1998. This amendment implements Decision II/12 adopted by the Second Conference of the Parties to the Basel Convention in March 1994.

Background

2. The European Community is a full Party to the Basel Convention on transboundary movements of hazardous wastes and their disposal.
3. Council Regulation (EEC) N° 259/93 transposes the provisions of the Basel Convention into Community law by establishing a system of supervision and control to apply to shipments of waste within, into and out of the EC.

Exports of waste which is listed in Annex II of the Regulation (green waste) and is destined for recovery operations only, are excluded from the scope of application of the Regulation, except as provided for in, inter alia, Article 1.3(b-e) and Article 17.1-3.

Article 14 of the Regulation prohibits all exports of waste, hazardous and non-hazardous, destined for final disposal to non-OECD countries. Furthermore, all exports of hazardous waste, whether for disposal or for recovery, are prohibited to ACP countries.

4. On 25 March 1994, the Second Conference of the Parties to the Basel Convention adopted Decision II/12 which requires the immediate prohibition of all exports of hazardous waste destined for final disposal from OECD to non-OECD countries and the prohibition of all exports of hazardous waste destined for recovery operations by 1 January 1998 at the latest.

The Decision further allows hazardous waste to be exported for recycling or recovery to non-OECD countries until 1 January 1998 subject to certain conditions. These are that the country does not have a national hazardous wastes import ban and that it informs the Secretariat of the Basel Convention of specific details of the type of hazardous waste allowed to import, the quantities involved and detailed technical information on the specific recycling/recovery process to be used and the final destination/disposal of the residues which are derived from recycling/recovery operations.

5. This Decision was supported unanimously at the Council meeting of 24 March 1994 by all Member States and also by the Community. At the Council meeting of 9 March 1995, the ministers for the Environment reconfirmed their commitment to the Decision by sending a statement in this sense to the Secretariat of the Basel Convention. The Commission committed itself to present a proposal for an amendment to Regulation 259/93 accordingly, with a view to the Council meeting in June.
6. At the request of the Council and on behalf of the European Community, the Commission, sent the Secretariat of the Basel Convention a proposal for an amendment prohibiting exports of hazardous waste destined for final disposal from OECD to non-OECD countries (cf. paragraph 1 of Decision II/12). With regard to such exports destined for recovery operations, the Community considered it appropriate to await the outcome of the "Global Workshop on the Implementation and the Applicability of Decision II/12" held in Dakar, Senegal, from 15 to 17 March 1995.

At this workshop it was subsequently agreed that in general more work needed to be carried out to define, classify and characterize hazardous waste; i.e. to better determine what was covered by the Basel Convention and thus by Decision II/12. The workshop did not, however, provide elements to justify a delay in the implementation of Decision II/12.
7. To fulfill the commitment to the Council and on political and legal grounds it is now necessary to transpose Decision II/12 into Community law and to fulfill the commitment taken by the Community and all Member States on 25 March 1994 at international level when Decision II/12 was adopted.
8. Article 16 of Regulation 259/93 regulates the exports of hazardous waste destined for recovery operations. Consequently, to transpose Decision II/12 into the relevant Community law, Article 16 of this Regulation needs to be amended accordingly.
9. Following the adoption of this proposal, the Commission will have to ask the Council for a mandate to participate, in the name of the Community, in the discussions of the contracting Parties to the Basel Convention in order to amend the Convention to incorporate Decision II/12.
10. The Commission therefore requests the Council to adopt the attached proposed Regulation.

Proposal for a

COUNCIL REGULATION (EC)

**amending Regulation (EEC) N° 259/93 on
the supervision and control of shipments of waste
within, into and out of the European Community**

EXPLANATORY MEMORANDUM

1. The Second Conference of the Parties to the Basel Convention on transboundary movements of hazardous wastes and their disposal adopted Decision II/12 by consensus on 25 March 1994. By Decision II/12 it was decided to immediately prohibit all exports of hazardous waste which are destined for final disposal from OECD to non-OECD countries and to prohibit all exports of hazardous waste which are destined for recycling or recovery operations from OECD to non-OECD countries as of 1 January 1998.
2. This Decision was supported unanimously at the Council meeting of 24 March 1994 by the Community. At the Environment Council of 9 March 1995, all the ministers confirmed their commitment to this Decision.
3. The Commission, at the request of the Council and on behalf of the European Community, has sent a proposal for an amendment to the Secretariat of the Basel Convention in accordance with the first paragraph of Decision II/12 (cf. the prohibition relating to exports for final disposal). With regard to the second paragraph relating to exports for recovery, it was considered appropriate to await the outcome of the "Global Workshop on the Implementation and Applicability of Decision II/12" held from 15 to 17 March 1995 in Dakar, Senegal.
4. The Workshop has not provided elements to justify a delay of implementation of Decision II/12 in Community law. Therefore, it is the purpose of the attached proposed Council Regulation to amend Council Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community in view of prohibiting all exports of hazardous waste to non-OECD countries as of 1 January 1998.

Proposal for a
COUNCIL REGULATION (EC)
amending Regulation (EEC) N° 259/93 on
the supervision and control of shipments of waste
within, into and out of the European Community

95/ 0107 (SYN)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s, paragraph 1, thereof,

Having regard to the proposal from the Commission¹,

In cooperation with the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³

Having regard to Council Regulation (EEC) N° 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community⁴, and in particular Article 16 thereof,

Whereas the European Economic Community is a Party to the Basel Convention on the control of transboundary movements of hazardous waste and their disposal since 7 February 1994;

Whereas at the Second Conference of the Parties to the Basel Convention a Decision ("Decision II/12") was adopted by consensus to prohibit immediately all transboundary movements of hazardous wastes which are destined for final disposal from OECD to non-OECD States and to prohibit as of 1 January 1998, all transboundary movements of hazardous wastes which are destined for recycling or recovery operations from OECD to non-OECD States;

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⁴ OJ N° L 30, 6.2.1993, p. 1

Whereas the Parties are requested to cooperate and work actively to ensure the effective implementation of Decision II/12;

Whereas with respect to waste destined for final disposal, Article 14 of Regulation (EEC) N° 259/93 already prohibits all exports of such kind of waste to non-OECD States; and whereas Article 18 of the same Regulation prohibits all exports of waste to ACP States;

Whereas currently Regulation 259/93 does not provide for a total prohibition of exports of hazardous waste destined for recycling or recovery operations to non-OECD States;

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) N° 259/93 is hereby amended as follows:

1. Article 16, paragraph 1 is replaced by the following:

"Article 16

1. All exports of waste *listed in Annex III and IV* for recovery shall be prohibited except those to:

(a) countries to which the OECD Decision applies;

(b) other countries:

- which are Parties to the Basel Convention and/or with which the Community, or the Community and its Member States, have concluded bilateral or multilateral or regional agreements or arrangements in accordance with Article 11 of the Basel Convention and paragraph 2. *Any such exports shall however be prohibited from 1 January 1998 onwards.*

with which individual Member States have concluded bilateral agreements and arrangements prior to the date of application of this Regulation, in so far as these are compatible with Community legislation and in accordance with Article 11 of the Basel Convention and paragraph 2. These agreements and arrangements shall be notified to the Commission within three months of the date of application of this Regulation or of their date of application, whichever is earlier, and shall expire when agreements or arrangements are concluded in accordance with the first indent. ***Any such exports shall however be prohibited as from 1 January 1998 onwards.***"

Article 2

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

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

Done at Brussels,

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DOCUMENTS

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