

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 892 final

Brussels, 10 January 1983

Proposal for a  
COUNCIL DIRECTIVE  
on the supervision and control of transfrontier shipment of hazardous  
wastes within the European Community

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(submitted to the Council by the Commission)

COM(82) 892 final



I. General

1. The proposal for a Directive set out in the Annex covers the transfrontier shipment of hazardous wastes within the Community. It comes under the European Communities two action programmes on the environment, as adopted on 22 November 1973 (1) and 13 July 1977 (2) respectively, each of which gives particular priority to protecting human health and the environment from hazardous wastes.
2. The Council has already adopted Directives on the disposal of waste oils (3), on 16 June 1975, on the disposal of PCB (4), on 6 April 1976, and on toxic and dangerous waste (5), on 20 March 1978.

All these Directives lay down common principles and a common system of controls and safety regulations designed to provide Man, animals and the environment with effective protection against the exceptional dangers which arise when hazardous wastes are collected, transported, treated, stored and disposed of.

3. For several years now transfrontier shipments of hazardous wastes have been increasing steadily, primarily for the following reasons :
  - because of the lack of suitable firms, plants and dumps or of sufficient capacity in the country in which the wastes originated;
  - because plants or dumps in the country of destination are closer at hand than those in the country in which the wastes originated;

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(1) OJ C 112, 20 December 1973.  
(2) OJ C 139, 13 June 1977.  
(3) OJ L 194, 25 July 1975.  
(4) OJ L 108, 26 April 1976.  
(5) OJ L 84, 31 March 1978.

- because disposal costs, including transport costs, are lower in the country of destination, since more advanced technologies are available or less stringent environmental legislation apply there;
  - to evade more stringent national controls and requirements.
4. At present supervision of these wastes ends at the national frontier. Once the wastes cross the national frontiers, they leave the supervision of the competent national authorities, without any guarantee of adequate supervision in the country of destination.

For these reasons all the Member States are now calling for Community measures to guarantee adequate monitoring and supervision of transfrontier shipments of hazardous wastes.

Failure to lay down Community rules in this field would leave the danger that individual Member States might adopt their own national rules concerning import and export controls for hazardous wastes and thereby seriously hamper operation of the Common Market and competition within the Community.

5. This proposal for a Directive on the transfrontier shipment of hazardous wastes is to supplement the three Directives referred to above (75/439/EEC, 76/403/EEC and 78/319/EEC) by ensuring uninterrupted supervision and monitoring of hazardous wastes from the source right through to their final non-polluting disposal, even if this is to take place on the other side of the national frontier, in the interests of protecting human health and the environment.

6. Accordingly, under this proposal for a Directive it would be mandatory for the consignor to notify the competent authorities in the country of dispatch, in the destination country and in the country of transit, if any, whenever hazardous wastes are to be shipped to another Community country.

Article 14(2) and (3) of Council Directive 78/319/EEC on toxic and dangerous waste, which stipulates that these wastes must be accompanied by an identification form during transport, is to be extended explicitly to include transfrontier shipments. As a result, the wastes covered by this Directive must be accompanied by a standard Community consignment note each time they are shipped across national frontiers.

7. Waste oils are also included in this Directive, since recent research into the carcinogenic effects of used engine lubricants and coolants has confirmed that they are toxic and dangerous.
8. At its meeting on 28 and 29 September the Waste Management Committee which the Commission set up in 1976 to advise it on matters relating to the formulation and implementation of the Community's waste management policy approved the broad lines of this proposal for a Directive and at the same time stressed that it was urgent for the Council to approve the proposal as soon as possible in order to close a gap in the Community legislation.
9. Finally, a working party of government experts and specialists from industry held four meetings to help the Commission draw up its proposal. This proposal for a Directive contains all the main results of the working party's work.

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(1) OJ L 115, 1 May 1976.

## II. Legal situation and general context

1. Within the Community only the Federal Republic of Germany has specific legislation on the transfrontier shipment of hazardous wastes at the moment, in the form of the Order of 29 July 1974 concerning the import of wastes (i.e. the Abfalleinfuhr-Verordnung). Under this Order, persons shipping wastes into the Federal Republic of Germany must hold a licence issued by the competent authorities in the Land in question. A licence is also required in order to transport hazardous wastes within the Federal Republic.
  
2. None of the other Community countries has specific legislation concerning waste imports or exports. All that exists at the moment is a series of ad hoc bilateral agreements between the competent authorities in individual Community countries, in an attempt to guarantee a certain degree of supervision of transfrontier shipments of hazardous wastes. The agreements between the competent authorities in the Federal Republic of Germany and those in Belgium, France and the Netherlands, for example, stipulate that the authorities in the country in which the wastes originate must certify that their country does not have sufficient plant or capacity to dispose of the wastes and that there can therefore be no objection to shipping them to the Federal Republic.
  
3. Since 17 October 1980 operations between the three Benelux countries (i.e. Belgium, Luxembourg and the Netherlands) have been governed by an agreement (1) that the competent authorities in the country of destination must be notified of the shipment of hazardous wastes and that once a year a list of the hazardous wastes imported and exported will be drawn up and sent to each of the Benelux partners.

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(1) Recommendation by the Benelux Committee of Ministers.

4. However, all the Community Member States feel that these bilateral agreements are not fully satisfactory and that uniform legislation on the transfrontier shipment of hazardous wastes within the Community is urgently needed in order to ensure uninterrupted supervision of the wastes, even when they are transported across national frontiers, in the interests of protecting human life, animals and the environment.
5. Some 160 million tonnes of industrial waste are produced in the European Community each year; an amount of between 25 million and 30 million tonnes thereof comes under the heading of toxic or dangerous wastes. According to the available statistics, roughly 10% of these hazardous wastes are transported across national frontiers before disposal or treatment.
6. At present supervision of these wastes ends at the national frontiers, even in those countries which already have an extensive monitoring system. Once the wastes cross the national frontiers they leave the area under the supervision of the country of dispatch.

Even the countries to which the wastes are shipped generally know nothing about the hazardous wastes imported into their territory and have no sufficient control over them, since the wastes are frequently inadequately specified and identified and, very often, are even classified differently.

In the past this has resulted in a series of accidents when hazardous wastes have been shipped across frontiers. Gradually this has led to the realization that transfrontier shipment of hazardous wastes presents an exceptionally high risk to human health and to the environment.

7. For this reason, all the Member States are now calling for Community rules providing for stringent, uninterrupted supervision not only in the country of dispatch, but also in the country of destination and in the country of transit, if any. In the case of transfrontier shipments, supervision of hazardous wastes must not stop at the national frontiers, but must continue uninterrupted from the source right to the ultimate non-polluting treatment or disposal of such wastes.



### III. Comments on individual Articles

#### Article 1

Article 1 defines the objectives of the Directive.

#### Article 2

Article 2 lays down the scope of the Directive.

#### Articles 3 and 4

These Articles explain the procedure for mandatory notification of the competent authorities in the country of dispatch, the country of destination and the country of transit, if any, whenever transfrontier shipments of wastes are planned and describes some of the details of the procedure.

#### Article 5

Article 5 stipulates that any objections to the planned transfrontier shipment, must be made by the competent authorities in the country of destination not later than one month after the receipt of the notification.

#### Article 6

Article 6 explains the procedure for notification in cases of emergency or grave danger.

#### Article 7

Article 7 describes the consignment document procedure for transfrontier shipments of hazardous wastes.

#### Articles 8 and 9

These Articles explain the notification and consignment document procedure for hazardous wastes entering or leaving the Community.

#### Article 10

Article 10 states that proof of adequate insurance cover must be provided.

#### Article 11

This Article states requirements for labelling and safety instructions and

requires that transfrontier shipments of hazardous wastes shall be properly packaged.

#### Article 12

Article 12 requires that persons or undertakings performing transfrontier shipments of hazardous wastes must be in possession of an appropriate licence covering the transport of such waste.

#### Articles 13 and 14

These Articles call on the Member States to send the Commission a list of the hazardous wastes imported and exported, once a year and, every three years a report on the implementation of this directive.

As for the Commission, every three years it is to send the Council and Parliament a synthesis report.

#### Articles 15 and 16

Article 15 provides that the Technical Committee provided for by Article 18 of Directive 78/319/EEC may adapt the Annexes to this Directive.

Article 16 lays down the procedure for such adaptation.

#### Article 17

Article 17 stipulates that within six months of the date on which the Council adopts the Directive the Member States are to designate the competent authorities for the purposes of implementing the Directive.

#### Article 18

Article 18 stipulates that the Member States have to implement this directive within 12 months of its notification.

Proposal for a

COUNCIL DIRECTIVE

on the supervision and control of transfrontier shipment of hazardous wastes  
within the European Community

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THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,  
and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas any disparity between the provisions on disposal of hazardous waste already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas there are in particular disparities between the procedures applying to the supervision and control of the transfrontier shipment of hazardous waste within the Community; whereas it is therefore necessary to approximate laws in this field, as provided for in Article 100 of the Treaty;

Whereas the 1973 (3) and 1977 (4) programmes of action of the European Communities on the environment stress the need for Community action in order to control the disposal of hazardous waste;

Whereas Council Directives 75/439/EEC on the disposal of waste oils (5), 75/442/EEC on wastes (6), 76/403/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (7) and 78/319/EEC on toxic and dangerous waste (8) have already laid down certain provisions for the implementation of these action programmes, but have not yet regulated the supervision and control of the transfrontier shipments of hazardous wastes;

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(1) OJ No  
(2) OJ No  
(3) OJ No C 112, 20.12.1973, p. 3  
(4) OJ No C 139, 13.6.1977, p. 3  
(5) OJ No L 194, 25.7.1975  
(6) OJ No L 194, 25.7.1975

(7) OJ No L 108, 26/04/1976  
(8) OJ No L 84, 31/03/1978

Whereas the essential objective of all provisions relating to the disposal of hazardous waste must be the protection of human health and the safeguarding of the environment against the harmful effects of such waste;

Whereas an efficient and coherent system of supervision and control of the transfrontier shipment of hazardous waste should neither create barriers to intra-Community trade nor affect competition;

Whereas the transfrontier shipment of hazardous waste is increasing because of a lack of appropriate local treatment and disposal capacity, and in some cases in order to avoid compliance with more stringent regulations, and whereas since this increase in long distance transport results in increased risk, it must be ensured that within the single economic area constituted by the common market the supervision and monitoring of these wastes from the moment of their arising until their treatment or ultimate safe disposal is continued across national frontiers;

Whereas this requires notification of transfrontier shipment of hazardous wastes and a common uniform consignment note;

Whereas in order to ensure effective protection of human life and the environment against the high risks from transport of hazardous waste, persons or undertakings operating transfrontier shipments of hazardous wastes should be obliged to have a licence covering the shipment of such wastes;

Whereas adequate insurance cover must be taken out in order to ensure compensation for damage which may occur during transfrontier shipments of hazardous wastes;

Whereas hazardous waste should be packed bearing appropriate labelling indicating in particular the nature, composition and origin of the waste; whereas safety instructions to be followed in the event of hazards and accidents should accompany the transfrontier shipment of hazardous wastes in order to protect man and the environment against dangers which could arise during the shipment;

Whereas in order to ensure that hazardous waste does not present unnecessary risk it should be properly packaged;

Whereas the contractual arrangements should be communicated to the competent authorities together with the notification;

Whereas Member States may give effect to the requirements of this Directive in accordance with any obligations which they may have contracted under international conventions on the transport of dangerous goods,

HAS ADOPTED THIS DIRECTIVE :

ARTICLE 1

Member States shall, in accordance with the provisions of this Directive, take the necessary measures for the supervision and control with respect to the protection of the environment of the transfrontier shipment of hazardous waste within the European Community or entering or leaving the Community.

ARTICLE 2

For the purpose of this Directive "hazardous waste" means :

- toxic and dangerous wastes as defined in Article 1 b) of Directive 78/319/EEC
- PCB as defined in Article 1a) of Directive 76/403/EEC
- waste oils as defined in Article 1 of Directive 75/439/EEC.

ARTICLE 3

1. Where hazardous waste is to be shipped to another Member State of the Community for treatment, use, storage or final disposal, the producer or consignor shall give notice to the competent authorities of the country of destination, the country of dispatch and, where appropriate, the country of transit.
2. The competent authorities shall also be provided with satisfactory evidence, such as a suitably endorsed declaration from the waste disposer, the treatment centre or the licensed user in the country of destination or a copy of the contractual arrangements, that sufficient and technically adequate capacity and proper contractual arrangements exist for the environmentally safe treatment, use, storage or final disposal of the waste in question.

3. General notification may be given for a specified period if there are continuous shipments of the same kind of wastes to the same disposal or treatment facility or to the same licensed user in the country of destination.

The competent authorities of the country of destination may for such general notification require specific information to be made available such as precise quantities or periodical listing of the types of waste to be shipped.

4. The notification shall be made on the form, a specimen of which is given in Annex I.

#### ARTICLE 4

1. The transfrontier shipment may not be executed before receipt of acknowledgement of the notification by the competent authorities of the country of destination.

The acknowledgement shall be furnished not later than one month after receipt of the notification.

2. A single acknowledgement may cover more than one consignment of waste or refer to a specified period if there are continuous shipments of waste of the same physical and chemical composition to the same treatment or disposal facility or to the same licensed user in the country of destination as proposed by a general notification.

3. A copy of the acknowledgement shall accompany the shipment together with the consignment note.

#### ARTICLE 5

Objections to the proposal for treatment, use, storage or disposal in a Member State of the Community other than the state of origin may be made by the competent authorities of the country of destination not later than one month after receipt of the notification. The grounds of objection must be stated.

#### ARTICLE 6

In cases of emergency or grave danger the producer or consignor may make the notification in such a form as he deems appropriate and the competent authorities of the Member State concerned shall take the necessary measures immediately.

#### ARTICLE 7

1. The transfrontier shipment of hazardous wastes shall be accompanied by a consignment document in the form specified in Annex II, completed in accordance with this Article.
2. The producer or consignor shall fill in the consignment document and send copies to the competent authorities of the countries of dispatch, destination, and, where appropriate, the country of transit.
3. All subsequent undertakings involved in the operation shall complete where indicated, sign and retain a copy of the consignment document.
4. The producer or consignor of the waste and the competent authorities of the countries of dispatch, transit and destination shall receive a final copy of the consignment document after receipt of the waste at the disposal or treatment facility or by the licensed user. The particulars on these copies shall show that the transfrontier shipment has been executed.  
The copies shall be sent out by the consignee not later than 2 weeks after reception of the waste.

#### ARTICLE 8

The requirements laid down in this Directive with respect to notification and consignment shall also apply to shipments of hazardous wastes from third countries entering the Community.

#### ARTICLE 9

When hazardous wastes are shipped to a third country the customs service in the last Member State through which the shipment passes shall be given a copy of the consignment note. When satisfied that the shipment has properly left the Community, the customs service shall forward suitably endorsed copies of the consignment note to the consignor and the competent authorities of the Member States of dispatch and transit, thereby informing them of the fact.

The consignor of the waste shall declare or certify to the competent authority of the Member State of dispatch not later than six weeks after the waste has left the Community that the waste has reached its proper destination.



#### ARTICLE 10

The transfrontier shipment of hazardous waste shall be covered by adequate insurance with respect to damage which it may cause during shipment.

#### ARTICLE 11

1. Transfrontier shipments of hazardous waste shall be properly packaged.
2. The packaging of hazardous waste shall be appropriately labelled, indicating in addition to the nature, composition and quantity of the waste, the telephone number where specialist advice may be obtained at all times during the shipment.
3. Transfrontier shipments shall be accompanied by appropriate safety instructions to be followed in the event of hazards and accidents.

#### ARTICLE 12

Transfrontier shipments of hazardous waste may be carried out only by persons or undertakings in possession of an appropriate licence covering the transport of such waste.

#### ARTICLE 13

Member States shall compile annually a list indicating at least the quantity and the type of hazardous waste which is shipped into or outside their territory.

They shall communicate this information to the Commission not later than at the end of the year following the reporting period.

#### ARTICLE 14

Every three years, and for the first time three years following the notification of this Directive, Member States shall draw up a situation report on the implementation of this Directive and on the situation of the transfrontier shipments with which they are concerned.

The Commission shall, every three years, submit a summary report to the Council and the European Parliament.

#### ARTICLE 15

The Technical Committee set up under Article 18 of Directive 78/319/EEC shall also be competent with respect to the adaptation of the Annexes of this Directive to technical progress.

Such adaptations shall be made according to the procedure laid down in Article 16.

#### ARTICLE 16

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee by the Chairman, either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit which may be determined by the Chairman according to the urgency of the matter. It shall decide by a majority of 45 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.
3. (a) The Commission shall adopt the measures envisaged where these are in accordance with the opinion of the Committee.  
  
(b) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion has been given, the Commission shall forthwith propose to the Council the measures to be adopted. The Council shall act by a qualified majority.  
  
(c) If, within three months of the proposal being submitted to it, the Council has not acted, the measures proposed shall be adopted by the Commission.

#### ARTICLE 17

Member States shall designate the competent authority or authorities for the implementation of this Directive.

Member States shall communicate to the Commission within 6 months of the notification of this Directive the names, addresses, telephone and telex numbers of the designated authority or authorities. The Commission shall circulate this information to the Member States.

ARTICLE 18

Member States shall bring into force the measures necessary to comply with this Directive within 12 months of its notification. They shall forthwith inform the Commission thereof.

ARTICLE 19

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

ARTICLE 20

This Directive is addressed to the Member States.

Done at

For the Council,

Notification document for the transfrontier shipment of hazardous waste

A. Authorities' copy	B. Producers' copy	C. Disposers' copy	
1. Denomination/description .....  4. Process from which waste originated .....	2. <u>Composition</u> (1)		3. <u>Mass tons</u>
5. <u>Nature of waste</u> explosive = a    aggressive = b    corrosive = c    poisonous = d    ADR/IMCO class No .....			
6. <u>Physical appearance at normal temperature</u> (2) 1 = powdery/dusty    3 = pasty/muddy    5 = liquid    7 = colouring 2 = solid            4 = slurry            6 = gaseous			
7. <u>Producer of waste</u> (name, address, telephone, telex)  Actual point of arising : .....  Destination (name and address) .....		<u>Contact person</u> (name, address, telephone, telex)	
8. <u>Means of transport</u> 1 = rail 2 = road 3 = sea 4 = inland waterway 5 = air			
(1) indicate general waste category of directive concerned as well as main component and, if possible, concentration (2) 10-15°C			

9. Transporter  
(name, address, telephone, telex)

10. Consignee  
(name, address, telephone, telex)  
- detail of licence (Nr or granting authority, validity) .....

11. Observations

P.S. Notes for the application and use of the notification system are printed on the back of the notification document.

Notes to be printed on the back of the notification document

1. The notification document consists of 4 forms :
  - Form 1 (red) for the competent authority of the country of destination.
  - Form 2 (white with a red bar) for the competent authority of the country of dispatch.
  - Form 3 (blue with a red bar) for the producer.
  - Form 4 (yellow with a red bar) for the proposed consignee.
  
2. The transfrontier shipment of hazardous waste may not be executed before receipt of the acknowledgement of the notification by the competent authorities of the country of destination.

Consignment document for the transfrontier shipment of hazardous waste

		A. Producers' copy	B. Transporters' copy	C. Disposers' copy (landfill or treatment)	D. Authorities' copy
1. <u>Denomination/description</u> .....		2. <u>Composition (1)</u>		3. <u>Mass tons</u>	
4. process from which waste originated .....					
5. <u>Nature of the waste</u> explosive = a aggressive = b corrosive = c poisonous = d ADR/IMCO class No.....					
6. <u>Physical appearance at normal temperature (2)</u> 1 = powdery/dusty    3 = pasty/muddy    5 = liquid    7 = colouring 2 = solid    4 = slurry    6 = gaseous					
7. <u>Producer of waste</u> (name, address, telephone, telex)			<u>Contact person</u> (name, address, telephone, telex)		
Actual point of arising : .....					
Date of dispatch : .....					
Destination (name and address) .....					
Signature for correct information .....					
8. <u>Means of transport</u> 1 = rail 2 = road 3 = sea 4 = inland waterway 5 = air		registration Nr of vehicle and/or container (3)			
		1. <input type="text"/>		2. .... 3. .... 4. ....	
9. <u>Containment</u>		9.1. <u>Container</u> (size, type and Nr of containers)			

(1) see Annex of Directive 78/319/CEE

(3) if changing vehicles give subsequent registration Nr.

(2) 10-15°C

10. <u>Transporter</u> (name, address, telephone, telex) - date of receipt - signature	<u>Other transporters</u>  <u>Reconciliation of difference</u>	<u>custom's control</u> (stamp)  for shipment to third countries
11. <u>Transport insurance against third party liability</u> (name, address, telephone, telex)  Date and validity of insurance                      N° of insurance police <div style="border: 1px solid black; width: 150px; height: 30px; margin-left: 350px;"></div>		
12. <u>Consignee</u> (name, address, telephone, telex) - detail of licence (Nr or granting authority, validity) ..... - date of arrival and acceptance - method of disposal or treatment - signature for reception		
13. Observations or for use by producer, transporter/ consignee/authorities		
14. <u>Safety instructions</u>		

P.S. : A list of competent authorities and their addresses, telephone and telex numbers are printed on the back of the consignment note.  
The notes for the application and use of the consignment note system are printed on the back of the consignment note.



Notes to be printed on the back of the consignment document

1. The multipart set of the consignment document consists of 8 forms :  
Form 1 (white) and 5 (gold) are records for the producer or consignor;  
Form 2 (rose) and 6 (blue) are for the competent authorities of the country of dispatch;  
Form 3 (yellow) and 7 (beige) are for the competent authority of the country of destination;  
Form 4 (orange) is a record for the carrier;  
Form 8 (green) is the record for the final disposal or treatment firm.
2. Photocopies can be used to replace multipart forms or for other purposes.
3. When the producer or consignor has received the acknowledgement of his proposal for treatment, use, storage or disposal from the competent authorities of the country of destination as being put forward by the notification according to Article 3 § 1 of the Directive, he fills in the consignment documents. All undertakings involved in the operation should sign the forms and hold one copy.
4. The carrier completes the forms in particular by indicating the name and address of his company, the registration no. of his vehicles and the transport insurance.
5. The producer or consignor will detach form 1 for his records and the forms 2 and 3 to be sent to the competent authorities of the country of dispatch and of destination.

In case of transit a photocopy of form 2 shall be sent to the competent authority of the transit country.

The remaining copies are handed over to the carrier accompanying the transport.

6. The carrier hands over these copies of the consignment note set to the consignee who will then record receipt of the waste.  
The carrier will retain one copy (form 4) for this records.
  
7. The final consignee will send form 5 (gold) to the producer or consignor, form 6 (blue) to the competent authority of the country of dispatch and form 7 (beige) to the competent authority of the country of destination not later than two weeks after reception of the waste.

In case of transit, a photocopy of form 7 will be sent to the competent authority of the transit country.

Form 3 should be retained by the final consignee for his records.