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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Notification by the EU and its Member States in accordance with Article 11 of the Basel Convention
	- Approval

1. The EU and its Member States are Parties to the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal. In accordance with Article 11 of the Convention, Parties to the Convention can notify regional agreements that stipulate provisions which are not less environmentally sound than those provided for by the Convention.
2. On the basis of the EU Treaties (which are regional agreements under Article 11 of the Basel Convention), the EU adopted rules compatible with the environmentally sound management of waste as required by the Basel Convention (i.e. the acquis on waste shipment and waste management). In order to inform the other Parties about the compatibility of the rules on the environmentally sound management of waste within the EU or the EEA with the requirements of the Basel Convention, it is necessary for the EU and its Member States to notify the relevant EU Treaties and the EEA Agreement to the Secretariat of the Basel Convention. Due to new entries on plastic wastes of the Basel Convention that the Conference of the Parties decided upon at its fourteenth meeting in May 2019, which will become effective on 1 January 2021, such a notification is notably needed in relation to shipments of plastic waste within the EU or the EEA.

3. Against this background, the EU and its Member States notify the Secretariat of the Basel Convention with the annexed letter, signed jointly by the Presidency of the Council and the European Commission, that the EU Treaties and the EEA Agreement are regional agreements under Article 11 of the Basel Convention. For sake of clarity, a non-exhaustive list of EU legislative acts on waste shipment and waste management is contained in the appendix to the notification. This notification is to be sent to the Secretariat of the Basel Convention before end 2020. Following the approval by the Council, the annexed letter will be sent to the Secretariat of the Basel Convention.
4. On 29 July 2020 and on 14 September 2020, the Working Party on International Environmental Issues (Basel) and the Working Party on the Environment, respectively, agreed to the draft notification.
5. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to approve, as an "A" item in the agenda of one of its forthcoming sessions, the notification by the EU and its Member States in accordance with Article 11 of the Basel Convention as expressed in the letter set out in the Annex to this Note.

Brussels,

Mr. Rolph Payet
Executive Secretary of the Basel Convention
c/o Palais des Nations, 8-14, Avenue de la Paix, 1211
Geneva 10
Switzerland

Subject: Notification by the EU and its Member States in accordance with Article 11 of the Basel Convention

Please find attached a notification by the European Union and its Member States in accordance with Article 11 of the Basel Convention.

Yours sincerely

Dr. Regina Dube
Federal Ministry for the Environment, Nature
Conservation and Nuclear Safety
Director General Water Management and Resource
Conservation
Robert-Schuman-Platz 3, 53175 Bonn
Germany

Mr. Kęstutis Sadauskas
European Commission
Director
Directorate-General Environment
Directorate B - Circular Economy and Green Growth
1049 Brussels
Belgium

Cc: Council Working Party on International Environmental Issues (Basel).

**Notification by the EU and its Member States
in accordance with Article 11 of the Basel Convention**

The European Union and its Member States hereby notify the Treaty on European Union¹, the Treaty on the Functioning of the European Union (TFEU)²; as well as the Agreement on the European Economic Area (EEA)³ as regional agreements in accordance with Article 11 of the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal.

Under these agreements, rules have been adopted, among other matters, to ensure the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention. These agreements and the related rules stipulate provisions which are not less environmentally sound than those provided for by the Basel Convention, in accordance with Article 11 of this Convention.

The rules are based notably on the Treaty on the Functioning of the European Union (TFEU), and preceding treaties, and binding on the European Union and the following 27 countries which are members of the European Union:

Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

In addition to the EU and its Member States, the EEA agreement is applicable in Norway, Iceland and Lichtenstein.

¹ <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html>

² <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21994A0103%2801%29>

This notification, on behalf of the EU and its Member States, applies with respect to transboundary movements of waste taking place within the EU or the EEA.

Based on Article 192, paragraph 1, of TFEU, and following the legislative procedure laid down in its Article 294⁴, a comprehensive set of rules governing transboundary movements of waste, as well as the management of waste, has been adopted. As laid down in Article 288 of TFEU, these rules are binding upon the European Union and all EU Member States. These rules also apply to EEA countries, if incorporated into the EEA agreement by a Decision of the EEA Joint Committee⁵. A non-exhaustive list of applicable legislative acts comprising this set of rules is contained in the annex to this notification.

These rules may be amended, supplemented and complemented in the future⁶, under the above mentioned agreements and taking into account other applicable international agreements and arrangements⁷, in order to ensure the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention.

⁴ Some acts have been adopted under the corresponding provisions under the previously applicable Treaty establishing the European Community, notably Articles 175(1), 251 and 249. EU Treaties currently in force can be found at: <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html#new-2-52>; and previously applicable treaties including the Treaty establishing the European Community at: <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-founding.html>, and on: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2006:321E:TOC>.

⁵ The relevant provisions in the EEA agreement are Article 92 et seq, Article 97 et seq., Articles 73 and 74 and Annex XX. The EEA agreement is available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01994A0103\(01\)-20191214](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01994A0103(01)-20191214) and its Annex XX is available at <https://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex20.pdf>. The EEA Joint Committee Decisions can be found here: <https://www.efta.int/legal-texts/eea/list-of-adopted-joint-committee-decisions-jclds>.

⁶ Note that some of the provisions covered in this notification are currently being reviewed, including those related to the amendments to the Basel Convention adopted by the Fourteenth meeting of the Conference of the Parties to this Convention

⁷ For example, OECD Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations [OECD-LEGAL-0266], which has already been notified under Article 11 of the Basel Convention.

NON-EXHAUSTIVE LIST OF APPLICABLE LEGISLATIVE ACTS

Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L190, 12.7.2006, p.1)⁸

This Regulation provides notably the conditions under which shipments of waste take place between Member States of the European Union.

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste (OJ L 312, 22.11.2008, p.3)⁹

Directive 2008/98/EC on waste, “the Waste Framework Directive”, contains requirements designed to ensure the environmentally sound management of all types of waste.

Legislation on the environmentally sound management of specific waste streams and certain waste management operations:

- European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10–23)¹⁰;
- Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34–43)¹¹;
- Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC (OJ L 102, 11.4.2006, p. 15–34)¹²;
- Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1–14)¹³;
- Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 365 31.12.1994, p. 10)¹⁴;

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006R1013-20180101>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586277255463&uri=CELEX:02008L0098-20180705>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586277763934&uri=CELEX:01994L0062-20180704>

¹¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1592298912075&uri=CELEX:02000L0053-20200306>

¹² <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1592299034876&uri=CELEX:02006L0021-20090807>

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006L0066-20180704>

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586278065824&uri=CELEX:02012L0019-20180704>

- Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC Text with EEA relevance (OJ L 330, 10.12.2013, p. 1–20)¹⁵;
- Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1–19)¹⁶;
- Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45–77)¹⁷.
- Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334 17.12.2010, p. 17)¹⁸;
- Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 16.7.1999, p. 1)¹⁹;

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02013R1257-20180704>

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586278649013&uri=CELEX:32019L0904>

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R1021>

¹⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586278282362&uri=CELEX:02010L0075-20110106>

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586278523107&uri=CELEX:01999L0031-20180704>