



Council of the
European Union

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NOTE

From: General Secretariat of the Council

To: Delegations

Subject: Current legislative proposals:
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on shipments of waste and amending Regulations (EU)
No 1257/2013 and (EU) No 2020/1056
= Information of the Presidency on the state of play

Delegations will find in the Annex an information note from the Presidency on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 20 December 2022.

**Regulation on shipments of waste and amending Regulations
(EU) No 1257/2013 and (EU) No 2020/1056**

- *Information of the Presidency on the state of play*

I. INTRODUCTION

1. The aim of this report is to inform about the state of play of the Council work on the proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056. The proposal is a recast of Regulation (EC) No 1013/2006 on shipments of waste and has the overall aim of increasing the level of protection of the environment and public health from the impacts of unsound transboundary shipments of waste. Moreover, it implements the Basel Convention and incorporates the OECD rules.
2. The proposal for a regulation is organised in 8 titles and 16 annexes. and contains inter alia provisions on shipments within the EU, with or without transit through third countries, provisions on exports from the EU to third countries, and specific provisions dedicated to enforcing the provisions. One of the Annexes sets out the criteria designed to demonstrate environmentally sound management in the destination treatment facilities in third countries.

II. WORK IN THE COUNCIL

3. The Commission published the proposal on 19 November 2021 and presented it at an informal video conference of the Working Party on the Environment on 6 December 2021 and at the Environment Council on 20 December 2021 under the Slovenian Presidency. The examination of the proposal started under the French Presidency, and under the Czech Presidency four meetings of the Working Party on the Environment and one informal video conference of the same Working Party were dedicated to the continuation of the discussion.

4. Under the Czech Presidency a number of general clarifications were sought, including on the relationship between the proposal for a regulation, the Basel Convention, the OECD Decision and the Waste Framework Directive. The main focus of the discussion under the Czech Presidency was on the most central part of the proposal, Title II containing provisions on shipments within the Union, with or without transit through third countries, and some selected annexes. More specifically the discussion focused here on conceptual and procedural aspects, such as the overall procedural framework applying to shipments of waste within the Union in Article 4, prior written notification and consent procedure (PIC procedure), or the green listed procedure. In the views of the Presidency, the agreement on those conceptual and procedural aspects is necessary before the remaining parts of the proposal can be discussed.
5. Considering that many questions from Member States related to the electronic system being developed for the submission and exchange of information in the transboundary movement of waste, a specific meeting was devoted to the functioning of the electronic system, which was also supported by a Commission non-paper aiming to provide responses to a selection of the questions and remarks put forward by the Member States in advance¹. Although digitalisation will speed up communication, the competent authorities on transboundary movements of waste will need sufficient time to assess the documentation and to obtain the necessary documentation and information. In the opinion of the Presidency discussions on the new electronic system may result in the need for further regulatory adjustments.

¹ In addition, on 8 December 2022, the Commission organised an expert meeting, looking into technical and ICT related elements of the electronic system.

6. Finally, matters related to take-back obligations (Title II, Chapter 4) and enforcement (Title VII) were discussed at the last meeting of the Working Party on Environment on 29 November 2022, for which the upcoming Swedish Presidency is also kindly invited to analyse the written comments that will be received on these elements. As regards the area of enforcement, the discussion was again supported by a Commission non-paper, and Member States had also the opportunity to exchange their views with the European Anti-Fraud Office (OLAF), for which a specific role is foreseen in the enforcement of the proposed regulation. In the view of the Presidency, further clarification on the question of penalties within the enforcement chapter is needed. Member States expressed a strong will to have flexibility in the relevant procedures for the imposition of penalties in the event of infringements of the regulation. Questions also remain about the relationship between administrative penalties and criminal sanctions. The Presidency also agrees with the view raised at the meeting that the question of penalties is discussed at different levels in the context of a considerable number of legislative proposals but that a horizontal approach to penalties in environmental legislation is currently lacking.

III. WORK OF THE PRESIDENCY

7. The comments and concerns of the Member States during the Czech Presidency were analysed in more depth in a separate working document provided to the Working Party on the Environment. Moreover, as contribution to the work on the draft Regulation which will have to continue under the Swedish Presidency and based on the compromise proposal by the French Presidency², the Presidency presents a proposal to be circulated that further modifies Title II (Articles 4, 5, 8, 9, 10, 11, 12, 16, 18, 20, 21, 26 and 27) and Annexes II and VII.

² ST 10807/22