



Council of the
European Union

Brussels, 7 December 2023
(OR. en)

16528/23

**Interinstitutional File:
2021/0367(COD)**

**ENV 1466
MI 1106
RELEX 1447
CODEC 2439**

OUTCOME OF PROCEEDINGS

| | |
|-----------------|---|
| From: | General Secretariat of the Council |
| To: | Delegations |
| No. prev. doc.: | 16076/23 |
| No. Cion doc.: | 14135/21 + ADD 1 |
| Subject: | 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 – Letter to the Chair of the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI) |

Following the Permanent Representatives Committee meeting of 6 December 2023 which endorsed the final compromise text, delegations are informed that the Presidency sent the attached letter, together with the final text agreed in Coreper, to the Chair of the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI). Please note that the final compromise text on the technical annexes to the waste shipments regulation has been established as addendum.



SGS 23 / 005210

Brussels, 6 December 2023

Mr Pascal CANFIN

Chair, European Parliament Committee for Environment, Public Health and Food Safety
European Parliament
Bât. WILLY BRANDT 04M099
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles/Brussel

Subject: *Proposal for a Regulation of the European Parliament and of the Council on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056 and repealing Regulation (EC) 1013/2006 (2021/0367 (COD))*

Dear Mr CANFIN,

Following the informal meeting between the representatives of the three institutions on 16 November 2023, the provisional overall compromise text for a Regulation of the European Parliament and of the Council on shipments of waste, was agreed on 6 December 2023 by the Permanent Representatives' Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise text contained in the Annex to this letter, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position (subject to revision by the legal linguists of both institutions) and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council, I also wish to thank you for your close and swift cooperation which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,



Raúl FUENTES MILANI

Chairman of the Permanent Representatives
Committee (Part I)

copy to: Virginijus SINKEVIČIUS, Commissioner, Pernille WEISS, Rapporteur

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056 and
repealing Regulation (EC) 1013/2006**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

- (1) It is necessary to lay out rules at the Union level to protect the environment and human health against the adverse impacts which may result from the shipment of waste. These rules should also contribute to the facilitation of environmentally sound management of waste, in accordance with the waste hierarchy laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council², as well as to the reduction of overall impacts of resource use and to the improvement of the efficiency of such use, which is crucial for the transition to a circular economy ***and for reaching climate-neutrality by 2050 at the latest.***
- (2) Regulation (EC) No 1013/2006 of the European Parliament and of the Council³ has, over the past fifteen years, brought about important improvements to protect the environment and human health against the adverse impacts which may result from the shipment of waste. However, the Commission's evaluation⁴ of that Regulation has also revealed a number of challenges and shortcomings, which need to be addressed through new regulatory provisions.

² Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJL 312, 22.11.2008, p. 3).

³ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

⁴ Commission Staff Working Document on the evaluation of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (SWD(2020) 27 final).

- (3) The European Green Deal⁵ sets out an ambitious roadmap to transform the Union into a sustainable, resource efficient and climate neutral economy. It calls on the Commission to review the Union rules on waste shipments established under Regulation (EC) No 1013/2006. The New Circular Economy Action Plan⁶ adopted in March 2020 further stresses the need for action to ensure that shipments of waste for re-use and recycling in the Union are facilitated, that the Union does not export its waste challenges to third countries and that illegal waste shipments are better addressed. In addition to the environmental and social benefits, this can also result in ameliorating EU's strategic dependencies on raw materials. ***Keeping more of the generated waste within the Union will, however, require improved recycling and waste management capacity.*** Both the Council⁷ and the European Parliament⁸ have also called for a revision of the current Union rules on waste shipments established under Regulation (EC) No 1013/2006. ***Article 60(2a) of Regulation (EC) No 1013/2006 mandated the Commission to carry out a review of this Regulation by 31 December 2020.***
- (4) Regulation (EC) No 1013/2006 has already been amended on several occasions and requires further significant amendments to ensure that the policy objectives of the European Green Deal and the New Circular Economy Action Plan are met. Regulation (EC) No 1013/2006 should therefore be ***repealed and*** replaced by a new Regulation.
- (5) This Regulation supplements the general waste management legislation of the Union, such as Directive 2008/98/EC. It refers to the definitions in that Directive, including, the definitions of waste and ***of terms related to*** waste management **■** . It also includes a number of additional definitions in order to facilitate uniform application of this Regulation.

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European ***Green Deal (COM(2019)0640*** final)

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 March 2020, A new Circular Economy Action Plan – For a cleaner and more competitive Europe (***COM(2020)0098*** final).

⁷ Council conclusions on Making the Recovery Circular and Green (13852/20 OJ CONS 34).

⁸ European Parliament resolution of 10 February 2021 on the New Circular Economy Action Plan (2020/2077(INI)).

- (6) This Regulation implements at Union level the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal⁹ (‘the Basel Convention’). The Basel Convention aims to protect human health and the environment against the adverse effects resulting from the generation, transboundary movements and management of hazardous wastes and other wastes. The Union has been a Party to the Basel Convention since 1994¹⁰.
- (7) This Regulation also implements at Union level an amendment to the Basel Convention¹¹ (the Ban Amendment) which was adopted in 1995 and entered into force at the international level on 5 December 2019. The Ban Amendment establishes a general prohibition on all exports of hazardous *wastes* that are *destined for* disposal and recovery *operations* from countries listed in Annex VII to the Basel Convention to *countries not listed in that Annex*. The Union has ratified the Ban Amendment and implemented it since 1997¹².
- (8) The Union submitted in October 2020 a notification, covering shipment of waste within the Union, to the Secretariat of the Basel Convention under Article 11 of that Convention. In line with that Article, the Union might therefore set out specific rules applying to the intra-EU shipments of waste which are not less environmentally sound than those provided for by the Basel Convention.
- (9) In view of the fact that the Union has approved the *OECD* Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations¹³ (‘the OECD Decision’), it is necessary to incorporate the content of that Decision, including its amendments, in Union legislation.

⁹ OJ L 39, 16.2.1993, p. 3

¹⁰ Council Decision 93/98/EEC of 1 February 1993 on the conclusion, on behalf of the Community, of the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention) (OJ L 39, 16.2.1993, p. 1).

¹¹ Amendment to the Basel Convention (‘Ban Amendment’) adopted by Decision III/1 of the Parties to the Basel Convention.

¹² Council Decision 97/640/EC of 22 September 1997 concerned the approval, on behalf of the Community, of the Ban Amendment (OJ L 272, 4.10.1997, p. 45) and Council Regulation (EC) No 120/97 of 20 January 1997 amended Regulation (EC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 22, 24.1.1997, p. 14).

¹³ OECD/LEGAL/0266

- (10) It is important to organise and regulate the supervision and control of shipments of waste in a way which takes account of the need to preserve, protect and improve the quality of the environment and human health and which ensures a uniform application of rules on waste shipments throughout the Union.
- (10b) To ensure a real transition towards a circular economy for shipments of waste from its place of origin to the best place of treatment for such waste, the principle of proximity, material efficiency as well as the need to reduce the environmental footprint of waste should be taken into account.***
- (11) It is necessary to avoid duplication with applicable Union legislation on the transport of certain materials that could classify as waste under this Regulation.
- (11a) Collection and conduction of wastewater through sewage systems pursuant to relevant Union legislation should not be considered as transport of waste under this Regulation.***
- (11b) In order to properly implement and enforce this Regulation, Member States should take the necessary measures to ensure that waste is not shipped under the guise of used goods, second-handed goods, by-products or substances or objects that reached end of waste status.***
- (12) Shipments of waste generated by armed forces or relief organisations should be excluded from the scope of this Regulation when imported into the Union in certain situations (including transit within the Union when the waste enters the Union). The requirements of international law and international agreements should be respected in relation to such shipments. In such cases, any competent authority of transit and the competent authority of destination in the Union should be informed in advance concerning the shipment and its destination.

- (13) It is necessary to avoid duplication with Regulation (EC) No 1069/2009 of the European Parliament and of the Council¹⁴, which already contains provisions covering the overall consignment, channelling and movement (collection, transport, handling, processing, use, recovery or disposal, record keeping, accompanying documents and traceability) of animal by-products within, into and out of the Union.
- (14) Regulation (EU) No 1257/2013 of the European Parliament and of the Council¹⁵ applies to large commercial ships flying the flag of a Member State of the Union, which were excluded from the scope of application of Regulation (EC) No 1013/2006. ***Such ships, when becoming waste and except when all hazardous substances and materials have been removed from it, are generally classified as hazardous waste.*** Following the recent international entry into force of the Ban Amendment, it is necessary to ensure that the ships covered by the scope of Regulation (EU) No 1257/2013 which ***are considered waste and are exported from*** the Union are made subject to the relevant Union waste shipment rules, ***including those*** implementing the Ban Amendment, in order to ensure strict legal compatibility of the Union's legal regime with international obligations. At the same time, it is also necessary to amend Regulation (EU) No 1257/2013 to clarify that ships falling within the scope of that Regulation and which ***are considered hazardous waste and are exported from*** the Union ***should*** only be recycled at those facilities included in the European List of ship recycling facilities established under that Regulation, which are located in countries listed in Annex VII to the Basel Convention.

¹⁴ Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).

¹⁵ 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 (OJ L 330, 10.12.2013, p. 1).

(14a) *In order to avoid unnecessary burden on Member State’s competent authorities and judicial systems in enforcing this Regulation, a shipment should not be considered illegal in case only minor clerical errors in the notification or movement documents or the Annex VII documents occur, such as clerical errors in spelling out the information when filling out the notification or movement documents or the Annex VII documents or omission of one of the contact details of one of the persons involved in the shipment. However, such exceptions to the definition of what constitutes an illegal shipment should be strictly limited to mistakes of a clerical nature, which occur exceptionally, which do not significantly alter the substance of these documents and which do not affect the objectives of the Regulation.*

(16) *It is appropriate to ensure optimal supervision and control by requiring prior written consent to shipments destined for recovery in particular of hazardous wastes, of wastes not listed in Annex III, Annex IIIA or Annex IIIB and of wastes containing or contaminated with persistent organic pollutants when containing or contaminated with POPs meeting or exceeding a concentration limit specified in Annex IV to Regulation (EU) 2019/1021¹⁶. Such a procedure should in turn entail prior notification, which enables the competent authorities to be duly informed so that they can take all necessary measures for the protection of human health and the environment. It should also enable those authorities to raise reasoned objections to such shipments.*

¹⁶ ***Regulation (EU) 2019/1021 of the European Parliament and the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p 45).***

- (16a) To take account of innovation in waste treatment technologies with regard to environmental sound management, as well as of changes in consumer behaviour with regard to the sorting of waste, it is essential that Annexes IIIA and IIIB be continuously updated. The Commission should in particular assess whether to add entries on mixtures of waste footwear, waste clothing and other textile waste to Annex IIIA, as well as on mineral wool and mattresses to Annex IIIB.*
- (16b) A well-functioning Union market for waste shipments should prioritise proximity, self-sufficiency and the use of the best available techniques in waste management as guiding principles. Achieving a fair transition to a circular economy is essential to attaining a climate neutral, resource-efficient and competitive Union economy that is sustainable in the long run. In order to achieve this objective, the Commission should facilitate sector-specific climate dialogues and partnerships by bringing together key stakeholders in the waste sector in accordance with Regulation (EU) 2021/1119 of the European Parliament and of the Council¹⁷.*

¹⁷ *Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999, (OJ L 243, 9.7.2021, p. 1–17).*

(17) ■ In order to support the achievements of targets to increase recycling and reduce disposal of waste set out in Directive 2008/98/EC and Council Directive 1999/31/EC¹⁸, *all* shipments of waste *destined* for disposal in another Member State should be generally prohibited. Shipments of waste *destined* for disposal should be allowed only in exceptional cases, *where certain conditions are fulfilled; in relation to the conditions related to technical feasibility and economic viability, the Commission should develop guidelines on criteria specifying these conditions*. In those cases, Member States should take into account the principles of proximity and self-sufficiency at Union and national levels, in accordance with Directive 2008/98/EC, and in particular Article 16 of that Directive, as well as the priority for recovery. Member States should also be able to ensure that the waste *disposal* facilities covered by Directive 2010/75/EU of the European Parliament and of the Council¹⁹ apply best available techniques as defined in that Directive in compliance with the permit of the facility, and that the waste is treated in accordance with human health and environmental protection requirements in relation to disposal operations established in Union legislation. *Furthermore, in order to support the implementation of the provisions in Directive 2008/98/EC designed to increase the separate collection of waste and reduce the generation of mixed municipal waste, shipments of mixed municipal waste to another Member State should be subject to particular scrutiny, shipments of such waste for recovery should be subject to the procedure of prior written notification and consent and shipments of such waste for disposal should be prohibited. This should cover also mixed municipal waste that has been subject to a waste treatment operation that has not substantially altered its properties, such as for example refuse derived fuel processed from mixed municipal waste, classified under the waste code 19 12 10 in the list of waste referred to in Article 7 of Directive 2008/98/EC. In line with the waste hierarchy and the principles of proximity and self-sufficiency, Member States should ensure that such waste is prevented in the first place, and collected and sorted in the second, with a view to separate those different fractions for recovery and only consider disposal for those residues that have no other potential than to be disposed of.*

¹⁸ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

¹⁹ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (■ OJ L 334, 17.12.2010, p. 17).

- (18) In the case of shipments of waste listed in Annex III, Annex IIIA or Annex IIIB of this Regulation destined for recovery operations, it is appropriate to ensure a minimum level of supervision and control by requiring such shipments to be accompanied by certain information on the persons and countries involved in the shipments, the description and quantities of the waste concerned, the type of recovery operation for which the waste is shipped and the details of the facilities which will recover the waste.
- (18a) Laboratory analysis and experimental treatment trials are often a necessary tool to assess the nature of the waste and its suitability for recovery and disposal operation. Sound and innovative waste management operations are key to ensure the environmental sound management of waste and to establish circular economy business models in the Union. The shipment of waste to such laboratory analysis and experimental treatment trials should be facilitated by not subjecting it to all the applicable procedures. Moreover, to deliver accurate results a sufficiently significant amount of waste should be allowed to ship for the purpose of laboratory analysis and experimental treatment trials for shipments within the Union, also because there are waste management standards and practices that are more developed in the Union compared to most third countries.***
- (19) It is necessary to set the grounds for Member States to object to shipments of waste destined for recovery. In the case of such shipments, Member States should be able to ensure that the waste **recovery** facilities covered by Directive 2010/75/EU apply best available techniques as set out in that Directive in compliance with the permit of the facility. Member States should also be able to ensure that waste is treated in accordance with human health and environmental protection requirements in relation to recovery operations established in Union legislation and that, taking account of Article 16 of Directive 2008/98/EC, waste is treated in accordance with waste management plans established pursuant to that Directive with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Union legislation. ***A recipient Member State should hence be able to object to shipments of waste, including shipments of mixed municipal waste, if they foresee that this waste will not be treated in an environmentally sound manner.***

- (20) It is necessary to provide for procedural steps and safeguards, when a notifier wishes to ship waste subject to the procedure of prior written notification and consent, in the interests of legal certainty and to ensure uniform application of this Regulation and the proper functioning of the internal market, *contributing to long-term competitiveness of the Union*. It is also necessary, in line with Article 6(11) of the Basel Convention, to ensure that the costs arising from situations where the shipment of waste subject to the prior written notification and consent cannot be completed or is illegal, are borne by the relevant operators. To this end, the notifier should establish a financial guarantee or equivalent insurance for each shipment of such waste.
- (21) In order to reduce the administrative burden for both public and private operators involved in shipments to facilities recognised as ‘pre-consented’, it is necessary to set out the conditions under which the status of ‘pre-consented’ can be granted, to ensure their mutual recognition by all Member States and harmonise the requirements for shipping waste to these facilities.

- (22) In order to *make the exchange of information according to the Regulation more efficient, in particular* in the processing of notifications *and information under Article 18 of this Regulation* for the shipment of waste and facilitate the exchange of information between the relevant authorities *and economic operators*, it is *imperative* that the *submission* and exchange of information and data, which relates to shipments of waste within the Union, be made via electronic means. *The central system and the national systems should be interoperable.* It is also necessary to empower the Commission to lay out the procedural and operational requirements for the practical implementation of the systems ensuring this electronic submission and exchange of information (such as interconnectivity, architecture and security). *Such systems should facilitate the handling of notification requests, inter alia by assisting those involved in a given request to keep track of the progress of the notification procedure. Such systems should also allow to extract data, including at the individual Member State's level, for the Commission to review how notification requests are handled in a timely manner, inter alia, for the purpose of relevant reporting by the Commission as provided under this Regulation.* It is also necessary to provide sufficient time for competent authorities in the Member States and economic operators to prepare for the shift from a *paper-based* approach, as laid down in Regulation (EC) *No 1013/2006*, to an approach to exchange information and documents electronically. This new obligation should therefore become applicable 24 months after the date of *entry into force* of this Regulation.
- (23) Economic operators involved in the transport of waste should be allowed to use the environment as established in Regulation (EU) No 2020/1056 of the European Parliament and of the Council²⁰ for the exchange of the information required under this Regulation during the transport of the waste, and interoperability of the systems provided for in this Regulation and the environment for the exchange of electronic freight transport information should be ensured.

²⁰ Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33).

- (24) In order to facilitate the work carried out by customs in the implementation of this Regulation, it is necessary that the central system operated by the Commission that allows for the electronic submission and exchange of information and documents becomes interoperable with the European Union Single Window Environment for Customs, currently being developed at the Union level²¹, when all required technical work to ensure this operability is completed.
- (25) Competent authorities in third countries should be able to issue and exchange the information and documents for the procedural requirements under this Regulation, via electronic means through the system operated at the Union level, if they so wish and if they comply with the requirements to exchange data via this system.
- (26) In order to ensure traceability of shipments of waste and not to impair the environmentally sound management of waste shipped across borders, it should be prohibited to mix waste with other waste from the start of the shipment to the receipt of the waste in recovery or disposal *facility*.
- (27) To facilitate the enforcement of the obligations laid down in this Regulation, it is important that economic operators and competent authorities keep documents and information required for the shipment of waste for a minimum period of five years from the date when a *certificate of the completion of the recovery or disposal has been provided* .

²¹ Proposal by the Commission for a Regulation of the European Parliament and the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, COM(2020) 673 final.

(28) *With a view to providing transparency contributing to ensure that shipments of waste are carried out pursuant to this Regulation and that the treatment of the waste at its destination is performed in an environmentally sound manner, information concerning shipments of waste should be published. In that regard, the Commission should be required to publish and regularly update certain non-confidential data on notifications of shipments that have been consented or objected to by the competent authorities, as well as on shipments of waste subject to the general information requirements of this Regulation. For this purpose, the Commission should use, to the extent possible, the electronic system for the exchange of data on waste shipments. The publication of such information by the Commission should be without prejudice to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus Convention)²² and Directive 2003/4/EC of the European Parliament and of the Council²³ and national legislation of Member States in this field. Any further requests to competent authorities on access to other information concerning waste shipments should be addressed in accordance with that legislation.*

²² OJ L 124, 17.5.2005, p. 4.

²³ *Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC, OJ L 41, 14.2.2003, p. 26–32.*

- (29) In order to implement the requirements set out in Article 9(2), (3) and (4) of the Basel Convention, an obligation should be laid down to the effect that waste from a shipment that cannot be completed as intended is to be taken back to the country of dispatch, ***and where needed stored safely***, or recovered or disposed of in an alternative way. It should also be compulsory for the person whose action is the cause of an illegal shipment to take back the waste involved or make alternative arrangements for its recovery or disposal, and to bear the costs arising from the take-back operations. ***If this is impracticable, meaning that this person does not have the possibility to fulfil these obligations in a reasonable time***, the competent authorities of dispatch or destination, as appropriate, should cooperate ***and take action*** to ensure the environmentally sound management of the waste concerned. ***In case there is no clarity on the person to whom the responsibility of an illegal shipment can be imputed to, the competent authorities concerned are to cooperate to ensure that the waste in question is taken back, recovered or disposed of. In order to reduce the environmental effects of shipments following from the obligation to take back waste in illegal shipments and allow, where appropriate, a more efficient procedure in situations with illegal shipments, it should be possible for the competent authorities of dispatch, transit and destination to agree in certain cases that the waste in an illegal shipment may be recovered or disposed of in an alternative way outside the country of dispatch, instead of taking it back. Such an alternative management should be environmentally sound. This should however only apply to shipments within the Union.***
- (30) With a view to ensuring that competent authorities are able to correctly process the documents submitted to them relating to the shipment of waste, it is necessary to lay out an obligation for the notifier to provide an authorised translation of these documents in a language acceptable to these authorities ■ if they so request. ***In order to avoid unnecessary administrative burden, the electronic system for exchanging information on waste shipments should include a function, which provides courtesy translations of relevant documents submitted in that system.***

- (31) In order to avoid disruptions of shipments of *objects or substances*, due to a disagreement between competent authorities on the status of these *being* waste or *non-waste*, it is necessary to set out a procedure to resolve such disagreements. It is important in that regard that competent authorities base their decisions on the provisions relating to the determination of by-products and to the *end-of-waste* status of Directive 2008/98/EC. ***Uniform conditions are needed for the Member States to decide whether an object or a substance should be considered as a used good or waste. Furthermore, Member States should take measures aiming to ensure that objects or substances intended to be shipped to another country as used goods fulfil such conditions in accordance with Union law.*** It is also necessary to ***establish criteria for the classification of specific waste in the Annexes to this Regulation and to*** lay out a procedure to resolve disagreements between competent authorities as to whether waste should be subject or not to the notification procedure. To ensure a better harmonisation across the Union of the conditions under which waste, ***including waste from composite materials which may be difficult to recycle***, should be subject to the notification procedure, the Commission should also be empowered to adopt ***delegated*** acts establishing criteria for the classification of specific waste in the relevant Annexes to this Regulation, which will determine whether or not it is subject to the notification procedure. In addition, in order to avoid that waste are falsely declared as used goods and to provide legal clarity, the Commission should be empowered to adopt implementing acts establishing criteria to distinguish between used goods and waste, for specific commodities for which such distinction is important, especially for their export from the Union.
- (32) To allow administrations to limit public expenditures linked to the handling of procedures for the shipment of waste and to the enforcement of this Regulation, it is necessary to foresee the possibility that appropriate and proportionate administrative costs linked to these procedures, as well as to supervision, analyses and inspections, be charged to the notifier ***and, where relevant, the person who arranges the shipment.***

- (33) In order to reduce administrative burdens and in exceptional circumstances, linked to specific geographical or demographical situations, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned. It should also be possible for a Member State to conclude such agreements with *members of the EFTA (European Free Trade Association)* , as well in a situation where waste is shipped from and treated in the country of dispatch but transits through another Member State.
- (33a) *Given the specific geographical situation of the Faroe Islands, and the status they hold as part of the Kingdom of Denmark, Denmark is the main importer of waste from the Faroe Islands for its recovery or disposal within its territory. Without prejudice to the applicability of the rules on the transit of waste through the Union, Denmark should be allowed to assume the full responsibility to treat the import of waste from the Faroe Islands into its territory as transport within its territory when it is the country of destination of this import.*
- (33b) *Although the supervision and control of transports of waste within a Member State is a matter for that Member State, national systems concerning transports of waste should take account of the need for coherence with the Union system for shipments of waste in order to ensure a high level of protection of the environment and human health.*
- (34) It is necessary, in order to protect the environment of the countries concerned, to clarify the scope of the prohibition of exports laid down in accordance with the Basel Convention from the Union of any waste destined for disposal in a third country other than an EFTA (European Free Trade Association) country.
- (35) Countries that are Parties to the Agreement on the European Economic Area may adopt the control procedures provided for shipments within the Union. In such cases, shipments between the Union and these countries should be subject to the same rules as shipments within the Union.

- (36) To protect the environment of the countries concerned, it is necessary to clarify the scope of the prohibition of exports of hazardous waste destined for recovery in third countries to which the OECD Decision does not apply, in accordance with the Basel Convention. In particular, it is necessary to clarify the list of waste to which that prohibition applies and to ensure that it also includes the waste listed in Annex II to the Basel Convention, namely waste collected from households, residues from the incineration of household waste and hard-to-recycle *certain* plastic waste.
- (36a) To ensure environmentally sound management of wastes containing or contaminated with persistent organic pollutants (POPs), such wastes should not be allowed for export from the Union to countries that are not members of the OECD, when containing or contaminated with POPs meeting or exceeding a concentration limit specified in Annex IV to Regulation (EU) 2019/1021.***

- (37) It is necessary to establish strict rules concerning the export for recovery of non-hazardous waste to third countries to which the OECD Decision does not apply, in order to ensure that this waste does not create damages to *the* environment and public *human* health in these countries. Under these rules, export from the Union should be allowed only *for waste that is not already covered by the prohibition of exports of hazardous waste and certain other wastes destined for recovery in third countries to which the OECD Decision does not apply, and only* to countries included in a list drawn up and to be updated by the Commission, when these countries have submitted a request to the Commission stating their willingness to receive certain non-hazardous *wastes or mixtures of non-hazardous wastes* from the Union and demonstrating their ability to manage such waste in an environmentally sound manner, on the basis of criteria laid down in this Regulation. *Such criteria should include compliance with international labour and worker rights Conventions. As Member States will evolve in ratifying more such Conventions, the Commission should be empowered to add relevant Conventions to the criteria in this Regulation.* Exports to countries other than those included in *the aforementioned* list should be prohibited. To ensure sufficient time for the transition to this new regime, a transitional period of three years after the general date of application of this Regulation should be foreseen. *In particular when establishing and updating the list of countries to which the OECD Decision does not apply and to which export of non-hazardous waste from the Union for recovery are authorised, the principle of equality in Union law should be applied and its application monitored.*
- (37a) *It is necessary to ensure that the shipment of waste that is necessary for building strong value chains is facilitated within the internal market, while ensuring that adequate controls are in place. Strengthening key value chains will accelerate the development of our resilience and enhance the Union's strategic autonomy.*

(38) Countries to which the OECD Decision applies are subject to the rules and recommendations laid down by the OECD on the shipment and management of waste, and have generally higher standards for the management of waste than countries to which the OECD Decision does not apply. It is however important that the export from the Union of non-hazardous waste for recovery does not create damages to *the* environment and *human* health in countries to which the OECD Decision applies. It is therefore necessary to establish a mechanism to monitor shipments of non-hazardous waste to such countries. In cases where there is *insufficient evidence* demonstrating the ability of the country concerned to recover this waste in an environmentally sound manner, the Commission should enter into a dialogue with the country concerned and, if the information is not sufficient to prove that the waste is recovered in an environmentally sound manner, be empowered to suspend such exports. *The Commission should ensure that the principle of equality is applied throughout the waste shipment process towards third countries to which the OECD Decision applies.*

(38a) *The Union has developed and implemented an ambitious policy to address the serious environmental and human health damage caused by plastic pollution, especially when it is linked to the mismanagement of plastic waste. The European Strategy for Plastics in a Circular Economy²⁴, the European Green Deal, the New Circular Economy Action Plan and the EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil'²⁵ reflect this ambition and have led to the adoption of a wide range of measures to reduce plastic waste and improve its management. These measures include in particular legislation on the management of waste (Directive 2008/98/EC), packaging and packaging waste (European Parliament and Council Directive 94/62/EC²⁶, as revised in 2018), single-use plastic products (Directive (EU) 2019/904 of the European Parliament and of the Council²⁷), as well as on the restrictions of intentionally added microplastics (Commission Regulation (EU) 2023/2055²⁸). In addition to these measures, new initiatives have been launched to further reduce plastic waste in the Union, such as the revision of Directive 94/62/EC on packaging and packaging waste and of Directive 2000/53/EC of the European Parliament and of the Council²⁹ on end-of-life vehicles, and a proposal for new rules preventing pellet losses to reduce microplastic pollution³⁰. In order to complement these measures designed to reduce plastic waste and improve its management within the Union, and to avoid that the Union exports its waste challenges to third countries, it is appropriate to lay down specific provisions to also ensure the sound management of plastic waste exported from the Union. These provisions aim at*

²⁴ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Strategy for Plastics in a Circular Economy (COM(2018) 28 final).*

²⁵ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Pathway to a Healthy Planet for All (COM(2021) 400 final).*

²⁶ *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).*

²⁷ *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).*

²⁸ *Commission Regulation (EU) 2023/2055 of 25 September 2023 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles (OJ L 238, 27.9.2023, p. 67–88).*

²⁹ *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).*

³⁰ *Proposal for a Regulation of the European Parliament and of the Council on preventing plastic pellet losses to reduce microplastic pollution (COM(2023) 645 final).*

ensuring that plastic waste exported from the Union is treated in conditions equivalent to those in place in the Union. Countries to which the OECD Decision does not apply are more likely to face serious environmental and human health challenges linked to the management of plastic waste exported from the Union. Furthermore, the standards and infrastructure for the management of plastic waste in these countries are, in most cases, not as developed as in the Union. The Union has prohibited the export of certain types of plastic waste (those classified under the codes Y48 and A3210) to these countries since 1 January 2021. In light of the elements provided above, and with the aim of further protecting the environment and human health, it is appropriate to extend the scope of this prohibition to cover the export of all plastic waste to these countries. In order to provide economic operators and competent authorities with sufficient time to adapt their operations to these new rules, the prohibition should become applicable 30 months after the entry into force of the Regulation. Any country to which the OECD Decision does not apply may be granted a derogation from this prohibition if it demonstrates that it manages plastic waste in an environmentally sound manner. Such derogation should be granted by means of a delegated act, upon request from a country as from 30 months from the application of the export prohibition.

- (38b) The Commission should exercise particular scrutiny as regards shipments of plastic waste to countries to which the OECD Decision applies and monitor how such waste is managed in such countries, and be empowered, to restrict exports of plastic waste to such countries to protect the environment and human health.*
- (38c) Furthermore, where they are permitted, the exports of all plastic waste to all third countries should be subject to the procedure of prior written notification and consent.*

- (39) The necessary steps should be taken to ensure that, in accordance with Directive 2008/98/EC and other Union legislation on waste, waste shipped within the Union and waste imported into the Union is managed, throughout the period of shipment and including recovery or disposal in the country of destination, without endangering human health and the environment. It is also necessary to ensure that waste exported from the Union is managed in an environmentally sound manner throughout the period of shipment and including recovery or disposal in the third country of destination. To this end, an obligation should be introduced for exporters of waste to ensure that the facility which receives the waste in **a** third country of destination is made subject to an **audit by an independent** third party **with appropriate qualifications**, prior to exporting waste to the facility in question. The purpose of this audit is to verify compliance of the facility in question with specific criteria laid down in this Regulation, designed to ensure that the waste will be managed in an environmentally sound manner. Where such audit concludes that the criteria laid down in this Regulation **are** not fulfilled by the facility in question, the exporter should not be entitled to export waste to this facility. **In order to ensure that audits are conducted in a professional and impartial manner, it is important to set out criteria on the independence and qualifications of the third party auditors, and to make clear that they should be authorised or accredited by an official public authority to perform these activities.** The obligation **on audits** should apply with regard to facilities located in all third countries, including those that are member of the OECD. The OECD Decision states that waste exported to another OECD country "shall be destined for recovery operations within a recovery facility which will recover the wastes in an environmentally sound manner according to national laws, regulations and practices to which the facility is subject". The OECD Decision does not contain any element or criterion specifying how to implement this requirement as regards the "environmentally sound management" of waste. In the absence of common criteria defining the conditions under which waste **is to** be recovered in the relevant facilities, it is necessary to address the risk that waste exported from the EU to countries belonging to the OECD is mismanaged in specific facilities, and hence facilities located in these countries should be subject to the audit requirements foreseen in this Regulation.

- (39a) *A register should be established and maintained by the Commission that contains information on facilities that have been subject to an audit. Such a register should provide information that facilitates the preparation of sound shipments by notifiers or persons who arrange a shipment intending to export waste from the Union, but is not intended to demonstrate compliance with conditions and obligations outlined in this Regulation. The register should facilitate for exporters of waste but does not take away the responsibility of the exporter of waste to demonstrate such compliance.*
- (40) Considering the right of each Party to the Basel Convention, pursuant to Article 4(1) thereof, to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention, imports into the Union of waste for disposal should be permitted where the exporting country is a Party to that Convention. Imports into the Union of waste for recovery should be permitted where the exporting country is one to which the OECD Decision applies or is a Party to the Basel Convention. In other cases, imports should be allowed only if the exporting country is bound by a bilateral or multilateral agreement or arrangement compatible with Union legislation and in accordance with Article 11 of the Basel Convention, except when this is not possible during situations of crisis, peacemaking, peacekeeping or war.
- (41) This Regulation should reflect the rules regarding exports and imports of waste to and from the overseas countries and territories laid down in Council Decision 2013/755/EU³¹.
- (42) In the specific cases of shipments taking place within the Union with transit via third countries, specific provisions pertaining to the consent procedure by third countries should apply. It is also necessary to adopt specific provisions pertaining to the procedures applying to the transit of waste through the Union from and to third countries.
- (43) For environmental reasons and in view of the particular status of the Antarctic, this Regulation shall explicitly prohibit the export of waste to this territory.

³¹ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (‘Overseas Association Decision’); OJ L 344, 19.12.2013, p. 1–118.

- (44) To ensure harmonised implementation and enforcement of this Regulation, it is necessary to lay out obligations for Member States to carry out inspections of the shipments of waste. Adequate planning of inspections of shipments of waste is also necessary to establish the capacity needed for inspections and to effectively prevent illegal shipments. Regulation (EC) No 1013/2006 required Member States to ensure that inspection plans for waste shipments be established by 1 January 2017. To facilitate more consistent application of the provisions related to inspection plans and to ensure harmonised approach for inspections across the Union, Member States should notify their inspection plans to the Commission, which should be tasked to review these plans and, where appropriate, issue recommendations for improvements. ***If competent authorities in the Member States of dispatch and destination are notified of an illegal shipment of waste, they should consider how they could increase their control measures for similar shipments to identify illegal shipments of waste at an early stage.***
- (45) Diverging rules exist in the Member States as regards the power of, and possibility for, authorities involved in inspections in Member States to require evidence to ascertain the legality of shipments. Such evidence could concern, inter alia, whether the substance or object is waste, whether the waste has been correctly classified, and whether the waste will be shipped to facilities managing waste in an environmentally sound manner in accordance with this Regulation. This Regulation should therefore provide the possibility for authorities involved in inspections in Member States to require such evidence. Such evidence may be requested on the basis of general provisions or on a case-by-case basis. Where such evidence is not made available or is considered to be insufficient, the carriage of the substance or object concerned, or the shipment of waste concerned should be considered as an illegal shipment and should be dealt with in accordance with the relevant provisions of this Regulation.

(46) The evaluation of Regulation (EC) No 1013/2006 found that one of the shortcomings is that national rules on penalties differ significantly across the Union. Therefore, to facilitate more consistent application of penalties, common non-exhaustive criteria should be established for determining the types and levels of penalties to be imposed in case of infringements of this Regulation. These criteria should include, inter alia, the nature and gravity of the infringement and the economic benefits derived from and the environmental damage caused by the infringement . Furthermore, in addition to the penalties required under this Regulation, Member States should ensure that illegal shipment of waste constitutes a criminal offence in accordance with the provisions laid down in Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008³².

Member States should lay down rules on penalties applicable to infringements of this Regulation and should ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. Member States may lay down rules for administrative as well as criminal penalties for the same infringements. In any case, the imposition of criminal and administrative penalties should not lead to a breach of the right not to be tried or punished twice in criminal proceedings for the same criminal offence (ne bis in idem) as interpreted by the Court of Justice.

(47) Experience with the application of Regulation (EC) No 1013/2006 showed that the involvement of multiple actors at the national level creates challenges to coordination and cooperation in relation to enforcement. Therefore, Member States should ensure that all relevant authorities involved in enforcement of this Regulation have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of enforcement policies and activities to address illegal shipments of waste, including for the establishment and implementation of the inspection plans.

³² Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law(OJ L 328, 6.12.2008, p. 28). █

- (48) It is necessary for Member States to cooperate, bilaterally and multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments of waste. To further improve coordination and cooperation across the Union, a dedicated enforcement group should be established with the participation of designated representatives of the Member States and of the Commission, as well as representatives of other relevant institutions, bodies, offices, agencies or networks. This enforcement group should meet regularly. It should be a forum, inter alia, for sharing information *relevant for the prevention and detection of illegal shipments, including information* and intelligence on trends in illegal shipments and *experience and knowledge* on enforcement **■**, including best practices.
- (49) To support and complement the enforcement activities of the Member States, the Commission should be empowered to carry out *inspections* and coordinating actions in respect of illegal shipments, which *are of a complex nature and* might have serious adverse effects on human health or the environment *and where the investigation needed has a cross-border dimension involving at least two countries*. In carrying out these *s inspections*, the Commission should act in full respect of procedural guarantees *and in close collaboration with the relevant authorities in the Member States, ensuring not to negatively impact any ongoing prosecuting, legal or administrative procedure concerning the same illegal shipment in the Member State*. The Commission may consider, as a matter of its internal organisation, entrusting certain enforcement actions foreseen by this Regulation to the European Anti-Fraud Office (OLAF), which possesses relevant expertise in that regard. *The inspection and mutual assistance coordinating action should be without prejudice to the primary responsibility of the Member States to ensure and enforce compliance with this Regulation; and should not affect the continued application of the powers conferred onto the Commission or the European Anti-Fraud Office (OLAF), respectively, in other legal acts, in particular in Regulation*

EU, Euratom) 883/2013 of the European Parliament and of the Council³³, Council Regulation 515/97³⁴, or Council Regulation 2185/96³⁵.

- (50) Member States should provide the Commission with information concerning the implementation of this Regulation, both through the reports submitted to the Secretariat of the Basel Convention and on the basis of a separate questionnaire. *The purpose of the reporting should be to analyse trends in relation to shipments of waste and data relevant for fighting against illegal shipments, such as data on illegal shipments and on inspections. The Commission should produce a report every three years on the implementation of this Regulation, based on the information provided by the Member States as well as on other information, gathered in particular through ad hoc reports by the Commission and the European Environment Agency on the shipments of plastic waste and other specific waste streams that are a source of concern. The systems for electronic submission and exchange of information and documents should be designed in such a way that data can be extracted from the system for the purpose of those reports.*
- (51) Efficient international cooperation regarding control of shipments of waste is instrumental in ensuring that shipments of waste are controlled and monitored on an appropriate level. Information exchange, shared responsibility and cooperative efforts between the Union and its Member States and third countries should be promoted with a view to ensuring sound management of waste.

³³ *Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).*

³⁴ *Council Regulation 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82 of 22.3.1997, p. 1).*

³⁵ *Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292 of 15.11.1996, p. 2).*

- (52) In order to facilitate the exchange of information and cooperation for the *harmonised* implementation of this Regulation, Member States should designate competent authorities and correspondents and notify them to the Commission, which should make this information publicly available. *Member States should also identify the authority or authorities and the members of their permanent staff responsible for the cooperation between Member States.*
- (53) Member States should be entitled, for the purpose of ensuring the control of waste shipments, to designate specific customs offices of entry and exit for shipments of waste entering and leaving the Union and notify them to the Commission, which should make this information publicly available.
- (54) In order to supplement or amend this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of *amending the elements of the recovery facility's request to obtain a pre-consent (Article 14(3)), laying down the information to be provided in certificates confirming recovery and disposal operations (Article 15(5a)), establishing instructions on completing Annex VII document (Article 18(12)), updating the list of information and documentation to be exchanged via electronic system (Article 26(1a)), laying down criteria based on which certain wastes shall be classified in Annexes III, IIIA, IIIB or IV (Article 28(4)), establishing list of countries to which the OECD Decision does not apply and to which exports of non-hazardous wastes, and mixtures of non-hazardous wastes, including plastic waste classified under B3011 (Article 40(3a)), from the Union for recovery are authorised and regularly updating this list (Article 38(1), (3) and (4)), prohibiting export of waste to certain countries, to which the OECD Decision applies (Article 42(2)) and amending Annexes (Article 75 of this Regulation). It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and*

³⁶ OJ L 123, 12.5.2016, p. 1.

their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (54a) *As a replacement of the regular meetings of correspondents and for the consultations with experts and correspondents of the Member States and, where appropriate, representatives of other stakeholders and organisations, in the preparation of delegated acts and for the examination of questions raised by the implementation of this Regulation, a group of experts should be established by the Commission, in accordance with Commission Decision C(2016) 3301 final, establishing horizontal rules on the creation and operation of Commission expert groups.*
- (55) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt ***a simple, risk-based and*** harmonised method for calculating the financial guarantee or equivalent insurance, to ***establish detailed criteria for technical feasibility and economic viability, to clarify for certain types of commodities the distinction between used goods and waste when shipped transboundary, to adopt a correlation table between the codes of the combined nomenclature provided for in Council Regulation (EEC) No 2658/87³⁷ and the entries of waste listed in Annex III, Annex IIIA, Annex IIIB, Annex IV, and Annex V to this Regulation, and to detail the information required for waste shipments in situations of crisis, peacemaking or peacekeeping operations.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³⁸.

³⁷ *Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff; OJ L 256, 7.9.1987, p. 1–675.*

³⁸ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

- (56) Regulation (EU) 2020/1056 establishes a legal framework for the electronic communication of regulatory information between the economic operators concerned and competent authorities in relation to the transport of goods on the territory of the Union and covers parts of this Regulation in its provisions. In order to ensure consistency between the instruments, it is necessary to amend Regulation (EU) 2020/1056. ***In order to avoid that before the date of application of the mandatory electronic data interchange according to this Regulation no implementing rules are adopted pursuant to Regulation (EU) 2020/1056 in relation to the definition, accessing and processing in electronic format of information requirements pursuant to this Regulation, the amendment to Regulation (EU) 2020/1056 should apply retroactively as of the date of application of this Regulation.***
- (57) It is necessary to provide for sufficient time for economic operators to comply with their new obligations under this Regulation, and for Member States and the Commission to set up the administrative infrastructure necessary for its application. In order to avoid any regulatory gap, it is necessary to ensure that some provisions of Regulation (EC) No 1013/2006 remain in force, until the date when the provisions of this regulation with a delayed application becomes applicable.
- (58) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the need for harmonization, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve ***those objectives***,

HAVE ADOPTED THIS REGULATION:

Title I

General Provisions

Article 1

Subject matter

This Regulation lays down measures to protect the environment and human health ***and to contribute to climate neutrality and achieving circular economy and zero pollution*** by preventing or reducing the adverse impacts which may result from the shipment of waste ***and the treatment of the waste at its destination***. It establishes procedures and control regimes for the shipment of waste, depending on the origin, destination and route of the shipment, the type of waste shipped and the type of treatment to be applied to the waste at its destination.

Article 2

Scope

1. This Regulation shall apply to:
 - (a) shipments of waste between Member States, with or without transit through third countries;
 - (b) shipments of waste imported into the Union from third countries;
 - (c) shipments of waste exported from the Union to third countries;
 - (d) shipments of waste in transit through the Union on the way to or from third countries.

2. This Regulation shall not apply to:

- (a) **■** waste, including waste water and residues, generated by the normal operation of ships and offshore platforms *until such waste is offloaded in order to be recovered or disposed of*, provided that such waste is subject to the requirements of *Directive (EU) No 2019/883*³⁹, the International Convention for the Prevention of Pollution from Ships, *the International Convention for the Control and Management of Ships' Ballast Water and Sediments* or other *relevant* binding international instruments;
- (b) waste generated on board vehicles, trains, aeroplanes and ships, until *such waste is offloaded*, in order to be recovered or disposed of;
- (c) shipments of radioactive waste as defined in Article 5 of Council Directive 2006/117/Euratom⁴⁰;
- (d) shipments of animal by-products and derived products as defined in Article 3(1) and (2) of Regulation (EC) No 1069/2009, respectively, except animal *by products* or derived products mixed or contaminated with any waste listed as hazardous in the *list of waste referred to in Article 7 of Directive 2008/98/EC* ;
- (e) shipments of waste *waters* where such shipments are already covered by *Directive 91/271/EEC*⁴¹ or other *relevant* Union legislation;
- (ea) *shipments of substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council and that do not consist of or contain animal by-products*;

³⁹ *Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116)*

⁴⁰ Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel (OJ L 337, 5.12.2006, p. 21).

⁴¹ *Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40).*

- (f) shipments of waste from the Antarctic into the Union which are in accordance with the requirements of the Protocol on Environmental Protection to the Antarctic Treaty⁴²;
- (g) shipments of CO₂ for the purposes of geological storage in accordance with Directive 2009/31/EC of the European Parliament and of the Council⁴³;
- (h) ships flying the flag of a Member State falling within the scope of Regulation (EU) No 1257/2013, with the exception of ships;

- ***which are considered as hazardous waste, are located*** in an area under the national jurisdiction of a Member State ***and are exported from the Union for recovery***, to which ***only*** Article 36, 45, 46 and Title VII apply, ***or***

- ***which are considered as waste, are located in an area under the national jurisdiction of a Member State and destined for disposal***;

3. For imports of waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations where such waste is shipped, by those armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination, only ***Articles 48(5) and 48(6)*** shall apply.
4. ***For*** shipments of waste from the Antarctic to third countries, which transit through the Union, Articles 36 and 56 ***shall apply***.
5. For ***transports*** of waste exclusively within a Member State, only Article 33 shall apply.

⁴² Protocol on Environmental Protection to the Antarctic Treaty of 1991.

⁴³ Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘mixture of wastes’ means waste that results from an intentional or unintentional mixing of two or more different wastes, which are ■

(a) listed in different entries in Annexes III, IIIA, IIIB and IV, or, where applicable, in different indents or sub-indents of such entries, or

(b) not classified under one single entry in Annexes III, IIIA, IIIB or IV.

Waste shipped in a single shipment of wastes, consisting of two or more wastes, where each waste is separated, is not a mixture of wastes;

- (2) ‘interim disposal’ means any of the disposal operations under **D8, D9, D13, D14 and D15** referred to in Annex I to Directive 2008/98/EC;
- (3) ‘interim recovery’ means any of the recovery operations under R 12 and R 13 referred to in Annex II to Directive 2008/98/EC;
- (4) ‘environmentally sound management’ means taking all practicable steps to ensure that waste is managed in a manner that will protect human health, **the climate** and the environment against adverse effects which may result from such waste;
- (5) ‘consignee’ means the person or undertaking under the national jurisdiction of the country of destination to whom or to which the waste is shipped for recovery or disposal;

(6) ‘notifier’ means:

- (a) in the case of a shipment originating from a Member State, any natural or legal person under the national jurisdiction of that Member State who plans or carries out a shipment of waste *referred to in Article 4(1) or (2) or who has had a shipment of waste carried out* and to whom the duty to notify is assigned, and who is listed below:
 - (i) the original waste producer;
 - (ii) the new waste producer who carries out operations prior to shipment *resulting in a change in the nature or composition of the waste*;
 - (iii) a collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single notified location;
 - (iv) a dealer or a broker acting on behalf of any of the categories specified in points (i), (ii) or (iii);
 - (v) where all of the persons specified above, are unknown or insolvent, the waste holder;

- (b) in the case of import into, or transit through, the Union of waste that does not originate in a Member State, any of the following natural or legal persons under the national jurisdiction of the country of dispatch who plans or carries out a shipment of waste or intends to have, or who has had, a shipment of waste carried out:
 - (i) the person designated by the law of the country of dispatch;
 - (ii) in the absence of a person designated by the law of the country of dispatch, the waste holder at the time the export took place;

(6a) ‘person who arranges the shipment’ means any natural or legal person under the national jurisdiction of the country of dispatch who plans or carries out a shipment of waste referred to in Article 4(3) or (4), or who has had a shipment of waste carried out, and who is listed below:

- (i) the original waste producer;**
- (ii) the new waste producer who carries out operations prior to shipment resulting in a change in the nature or composition of the waste;**
- (iii) a collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single location;**
- (iv) a dealer or a broker acting on behalf of any of the categories specified in points (i), (ii) or (iii);**
- (v) where all of the persons specified under points (i) to (iv) are unknown or insolvent, the waste holder;**

(7) ‘collector’ means any natural or legal person carrying out waste collection as defined in Article 3, point (10), of Directive 2008/98/EC.

(8) ‘competent authority’ means:

- (a) in the case of a Member State, the body designated by the Member State concerned in accordance with Article 71;
- (b) in the case of a third country that is a Party to the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal (‘the Basel Convention’);, the body designated by that country as the competent authority for the purposes of the Basel Convention in accordance with Article 5 thereof;

- (c) in the case of any country not referred to in either point (a) or point (b), the body that has been designated as the competent authority by the country or region concerned or, in the absence of such designation, the regulatory authority for the country or region, as appropriate, which has jurisdiction over shipments of waste for recovery or disposal, or transit, as the case may be;
- (9) ‘competent authority of dispatch’ means the competent authority for the area from which the shipment is planned to be initiated or is initiated;
- (10) ‘competent authority of destination’ means the competent authority for the area to which the shipment is planned or takes place, or in which waste is loaded prior to recovery or disposal in an area not under the national jurisdiction of any country;
- (11) ‘competent authority of transit’ means the competent authority for any country, other than the country of the competent authority of dispatch and the competent authority of destination, through which the shipment is planned or takes place;
- (12) ‘country of dispatch’ means any country from which a shipment of waste is planned to be initiated or is initiated;
- (13) ‘country of destination’ means any country to which a shipment of waste is planned or takes place for recovery or disposal therein, or for the purpose of loading prior to recovery or disposal in an area not under the national jurisdiction of any country;
- (14) ‘country of transit’ means any country, other than the country of dispatch or destination, through which a shipment of waste is planned or takes place;
- (15) ‘area under the national jurisdiction of a country’ means any land or marine area within which a state exercises administrative and regulatory responsibility in accordance with international law as regards the protection of human health or the environment;
- (16) ‘overseas countries and territories’ means the overseas countries and territories listed in Annex II to the Treaty;

- (17) ‘customs office of export’ means customs office of export as defined in Article 1, point (16), of Commission Delegated Regulation (EU) 2015/2446⁴⁴;
- (18) ‘customs office of exit’ means customs office of exit as determined in accordance with Article 329 of Commission Implementing Regulation (EU) 2015/2447⁴⁵;
- (19) ‘customs office of entry’ means customs office of first entry as defined in Article 1, point (15), of Delegated Regulation (EU) 2015/2446 ;
- (20) ‘import’ means any entry of waste into the Union but excluding transit through the Union;
- (21) ‘export’ means any exit of waste from the Union but excluding transit through the Union;
- (22) ‘transit’ means a shipment of waste or a planned shipment of waste through one or more countries other than the country of dispatch or destination;
- (23) ‘transport’ means the carriage of waste by road, rail, air, sea or inland waterways;
- (24) ‘shipment’ means the transport of waste destined for recovery or disposal from the *location from which the transport starts* until the *receipt of the waste by the facility that carries out the disposal or recovery operation* in the country of destination, which is planned to take place, or takes place:
- (a) between a country and another country;
 - (b) between a country and overseas countries and territories or other areas, under that country's protection;

⁴⁴ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

⁴⁵ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

- (c) between a country and any geographic area which is not part of any country under international law;
 - (d) between a country and the Antarctic;
 - (e) from one country through any of the areas referred to in points (a) to (d);
 - (f) within a country through any of the areas referred to in points (a) to (d) and which originates in and ends in the same country; or
 - (g) from a geographic area not under the national jurisdiction of any country, to a country;
- (25) 'illegal shipment' means any shipment of waste effected:
- (a) without notification to the competent authorities concerned pursuant to this Regulation;
 - (b) without the consent of the competent authorities concerned pursuant to this Regulation;
 - (c) with consent obtained from the competent authorities concerned pursuant to this Regulation through falsification, misrepresentation or fraud;
 - (d) in a way which is not in accordance with the information contained in the notification *document or contained in or to be provided in the movement document, except in case of minor clerical errors in the notification or the movement documents*;
 - (e) in a way which results in recovery or disposal in contravention of Union or international rules;
 - (f) contrary to Articles *4(1), 4(2a)*, 34, 36, 37, 42, *43*, 45, 46 or 47;

- (g) in a way which, in relation to shipments of waste as referred to in Article 4(3) and (4), *is not in accordance with the requirements referred to in paragraphs 1a, 1b, 2a and 7 of Article 18 or with the information contained or to be provided in the document set out in Annex VII, except in case of minor clerical errors in the document set out in Annex VII;*



(26) ‘inspection’ means *any* action undertaken by an authority to ascertain *compliance* with the requirements set out in this Regulation;

(27) ‘waste hierarchy’ means waste hierarchy as referred to in Article 4 of Directive 2008/98/EC.

(27a) ‘routing’ means the point of exit from and the point of entry into each country concerned, including customs offices of entry, exit and export;

(27b) ‘route’ means the itinerary between the location where the shipment starts in the country of dispatch, via the point of exit from and the point of entry into each country concerned, to the treatment facility in the country of destination.

In addition, the definitions of ‘waste’, ‘hazardous waste’, ‘treatment’, ‘disposal’, **‘waste management’**; ‘recovery’, ‘preparing for re-use’, ‘re-use’, ‘recycling’, ‘waste producer’, ‘waste holder’, ‘dealer’ and ‘broker’ laid down in Article 3, points (1), (2), **(9)**, (14), (19), (15), (16), (13), (17), (5), (6), (7) and (8) respectively of Directive 2008/98/EC shall apply.

Title II

Shipments within the Union with or without transit through third countries

Article 4

Overall procedural framework

1. Shipments of all wastes destined for disposal are prohibited, except if ***a consent is given*** in accordance with Article 11. In order to obtain ***a consent*** in accordance with Article 11 for a shipment of waste destined for disposal, the procedure of prior written notification and consent laid down in Chapter 1 shall apply.

2. Shipments of the following wastes destined for recovery operations shall **■** be subject to the procedure of prior written notification and consent laid down in Chapter 1:
 - (a) wastes listed in Annex IV;
 - (b) wastes not classified under one single entry in either Annex III, Annex IIIB or Annex IV;
 - (c) mixtures of wastes, unless listed in Annex IIIA;
 - (d) ***waste listed in Annex III or Annex IIIB and mixtures of wastes listed in Annex IIIA contaminated by other materials to an extent which:***
 - ***increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the of list of waste referred to in Article 7 of Directive 2008/98/EC as well as the hazardous properties listed in Annex III to that Directive, or***
 - ***prevents the recovery of the wastes in an environmentally sound manner;***

(e) *wastes or mixtures of wastes containing or contaminated with persistent organic pollutants (POPs) within the meaning of Regulation (EU) 2019/1021 in quantities meeting or exceeding a concentration limit indicated in Annex IV to that Regulation, which are not to be classified as hazardous wastes.*

2a. *Paragraph 2 shall apply to shipments of mixed municipal waste collected from private households, from other waste producers or from both, as well as to mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties, including refuse-derived fuels processed from mixed municipal waste, where such waste is destined for recovery operations. Shipments of such waste destined for disposal shall be prohibited.*

3. Shipments of the following wastes destined for recovery shall be subject to the general information requirements laid down in Article 18, if the amount of waste shipped exceeds 20 kg:

(a) waste listed in Annex III or Annex IIIB;

(b) mixtures of waste, provided that the composition of those mixtures does not impair their environmentally sound recovery and provided that such mixtures are listed in Annex IIIA.

4. *By way of derogation from Article 4(1) and (2),* shipments of waste explicitly destined for laboratory analysis or experimental treatment trials to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall be subject to the general information requirements laid down in Article 18 where all of the following conditions are fulfilled:

■

- (b) the amount of waste does not exceed *the quantity reasonably needed to perform the analysis or trial in each particular case, but not more than 250 kg* or any higher amount agreed on a case-by-case basis by the competent authorities *of dispatch and destination and the person who arranges the shipment;*
- (ba) *in case an amount higher than 250 kg is requested by a person who arranges the shipment, the person who arranges the shipment shall provide the information contained in Annex VII to the competent authorities of dispatch and destination together with a motivated explanation that such a higher amount is needed to perform the analysis or trial.*

Chapter 1

Prior written notification and consent

Article 5

Notification

1.

Where *a notifier intends* to ship waste referred to in Article 4(1),(2), *or (2a)*, they shall submit a notification to all competent authorities concerned.

A notifier referred to in Article 3, points (6)(a)(ii), (iii) and (iv) may only submit a prior written notification ('notification') when they have obtained a permit or are registered in accordance with Chapter IV of Directive 2008/98/EC.

Where *a notifier submits* a general notification for several shipments as referred to in Article 13, they shall also comply with the requirements laid down in that Article.

Where a shipment is destined to a pre-consented facility pursuant to Article 14, the procedural requirements in paragraphs **12, 14, and 16** of that Article shall apply.

Where a shipment is destined for an interim recovery operation or an interim disposal operation, Article 15 shall also apply.

2. The notification shall include the following documents:
 - (a) the notification document set out in Annex IA ('the notification document');
 - (b) the movement document set out in Annex IB ('the movement document').

The notifier shall provide the information in the notification document and, ***where relevant***, the information in the movement document.

When the notifier is not the original waste producer referred to in Article 3, point (6)(a)(i), the notifier shall ensure that the original waste producer or one of the persons indicated in Article 3, points (6)(a)(ii), ***(iii) or (v)***, ***where practicable***, also signs the notification document. ***A dealer or a broker shall ensure they have a written authorisation from one of the persons referred to in Article 3, points (6)(a)(i), (ii) or (iii), to act on their behalf, and that written authorisation shall be included in the notification.***

3. The notification document or annex thereto, shall contain the information and documentation as listed in Part 1 of Annex II. The movement document or an annex thereto, shall contain the information and documentation referred to in Part 2 of Annex II, ***to the extent possible at the time of notification.***

- 3b. Where requested by any of the competent authorities concerned, the notifier shall provide information and documentation in accordance with paragraph 3 and additional information and documentation as set out in Part 3 of Annex II to all competent authorities concerned. The competent authority which made the request shall inform the other competent authorities concerned of that request.***

4. A notification shall be considered properly carried out when the competent authority of dispatch is satisfied that the notification document and movement document have been completed in accordance with *paragraphs 3 and 3b*.

5. █

A notification shall be considered properly completed when *all* the competent *authorities concerned are* satisfied that the notification document and █ movement document █ have been *completed* in accordance with *paragraphs 3 and 3b or when all* information and documentation *that has been requested by them in accordance with paragraph 3b has been received* .

6. *A copy* of the contract concluded in accordance with Article 6 *and* a declaration certifying its existence in accordance with Annex IA shall be provided to the competent authorities concerned at the time of notification.

7. A declaration that a financial guarantee or equivalent insurance has been established in accordance with Article 7 shall be provided by the notifier through completion of the appropriate part of the notification document.

The financial guarantee or equivalent insurance as referred to in Article 7 or, if the competent authorities concerned so allow, a declaration certifying its existence in accordance with Annex IA shall be provided to the competent authorities concerned as part of the notification document at the time of notification.

By way of derogation from the *second* subparagraph, the *documentation* referred to in that subparagraph may, where the concerned competent authorities so allow, be provided after the notification is submitted, █ at the latest *at the time of completion of the movement document according to Article 16(2)*

8. The notification shall cover the shipment of waste from *the location from which it starts and shall include* its interim and non-interim recovery or disposal.

Where subsequent interim or non-interim recovery or disposal operations take place in a country other than the first country of destination, the non-interim operation and its destination shall be indicated in the notification and Article 15(6) shall apply.

8a. Only one waste identification code *as mentioned in Annex III, Annex IIIA, Annex IIIB or Annex IV* shall be *specified in the notification and movement document*. When wastes are not classified under one single entry in *either* Annex III, Annex IIIB or Annex IV, only one waste identification code *from the list of waste referred to in Article 7 of Directive 2008/98/EC* shall be *specified in the notification and movement document, except for:*

- waste not classified under one single entry in either Annex III, Annex IIIB or Annex IV which may be specified using more than one waste identification code from the list of waste referred to in Article 7 of Directive 2008/98/EC, where all waste covered by the notification has essentially similar physical and chemical characteristics, but is not a mixture of wastes, or

- mixtures of wastes not classified under one single entry in either Annex III, Annex IIIA, Annex IIIB or Annex IV, for which the waste identification code from the list of waste referred to in Article 7 of Directive 2008/98/EC and the waste identification code from either Annex III, IIIB or IV for each fraction of the waste shall be specified in order of importance in the notification and movement document, or where these are not available for all fractions, the waste identification code from the list of waste referred to in Article 7 of Directive 2008/98/EC for the mixture as well as for each fraction of the waste shall be specified in order of importance in the notification and movement document.

8b. *Waste or mixtures of waste specified in accordance with paragraph 8a first subparagraph may be further specified by providing the relevant waste identification codes from the list of waste referred to in Article 7 of Directive 2008/98/EC and other relevant identification codes.*

Article 6

Contract

1. All shipments of waste for which notification is required shall be subject to the requirement of the conclusion of a contract between the notifier and the consignee for the recovery or disposal of the notified waste. ***If the consignee is not the operator of the facility for the recovery or disposal of the notified waste, the contract shall also be signed by the operator of the facility.***
2. The contract shall be concluded and effective at the time of notification and for the duration of the shipment until a certificate is issued in accordance with Article 15(5), Article 16(4), or, where appropriate, Article 15(4).

The contract shall be consistent with the corresponding notification document and the movement document and at least contain information on the notifier, the consignee and the facility together with an identification of persons representing each party, notification number, the designation and composition of the waste, the waste identification, the quantity of waste covered by the contract, the recovery or disposal operation and the period of validity of the contract.

3. The contract shall include obligations:
 - (a) on the notifier to take the waste back ***or, where applicable, ensure its recovery or disposal in an alternative way*** if the shipment or the recovery or disposal has not been completed as intended or if it has been effected as an illegal shipment, in accordance with Article 22 and Article 24(2);
 - (b) on the consignee to recover or dispose of the waste if it has been effected as an illegal shipment, in accordance with Article 24(4);
 - (c) on the facility where the waste is recovered or disposed of, to provide, in accordance with Article 16(4), a certificate that the waste has been recovered or disposed of, in accordance with the notification and the conditions specified therein and the requirements of this Regulation.

4. Where the waste shipped is destined for interim recovery or interim disposal operations, the contract shall include the following additional obligations:
 - (a) on the *facility* to provide, in accordance with Article 15(4), and, where appropriate, Article 15(5), the certificate(s) from the facility or facilities carrying out the non-interim recovery or disposal operation(s), that all waste received in accordance with the notification and the conditions specified therein and the requirements of this Regulation, has been recovered or disposed of, specifying where possible the quantity and type of waste covered by each certificate;
 - (b) on the consignee to submit, where applicable, a notification to the initial competent authority of the initial country of dispatch in accordance with Article *15(7)*.
5. Where the waste is shipped between two establishments under the control of the same legal entity, the contract referred to in paragraph 1 may be replaced by a declaration by that legal entity. That declaration shall cover the obligations referred to in paragraph 3.

Article 7

Financial guarantee or equivalent insurance

1. All shipments of waste for which notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance, covering all the following costs:
 - (a) costs of transport;
 - (b) costs of recovery or disposal, including any necessary interim operation;
 - (c) costs of storage for 90 days.

2. The financial guarantee or equivalent insurance shall cover costs arising in the context of all the following cases:
 - (a) cases where a shipment or the recovery or disposal cannot be completed as intended, as referred to in Article 22;
 - (b) cases where a shipment or the recovery or disposal is illegal, as referred to in Article 24.
3. The financial guarantee or equivalent insurance shall be established by the notifier or by another natural or legal person on its behalf and shall be effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest **at the time of completion of the movement document according to Article 16(2)** . The financial guarantee or equivalent insurance shall apply to the notified shipment at the latest when the shipment starts.
4. The competent authority of dispatch shall approve the financial guarantee or equivalent insurance, including the form, wording and amount of the cover.
■
5. The financial guarantee or equivalent insurance shall be valid for and cover a notified shipment and completion of recovery or disposal of the notified waste.

The financial guarantee or equivalent insurance shall be released when the competent authority **that has approved it has** received the certificate referred to in Article 16(4) or, where appropriate, the certificate referred to in Article 15(5) as regards interim recovery operations or **interim** disposal operations.

6. By way of derogation from paragraph 5, where the waste shipped is destined for interim recovery operations or *interim* disposal operations and a further recovery operation or disposal operation takes place in the country of destination, the ***competent authorities of dispatch and destination may agree that the financial guarantee or equivalent insurance shall be released when*** the competent authority concerned has received the certificate referred to in Article 15(4). In that case, ***the competent authorities which decide to release the financial guarantee or equivalent insurance shall immediately inform the other competent authorities concerned of their decision and*** any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance unless the competent authority of destination is satisfied that such a financial guarantee or equivalent insurance is not required. In those circumstances, the competent authority of destination shall be responsible for obligations arising in the case of take-back where the shipment or the further recovery or disposal operation cannot be completed as intended, as referred to in Article 22, or in the case of an illegal shipment, as referred to in Article 24.
7. The competent authority within the Union which has approved the financial guarantee or equivalent insurance shall have access to that guarantee or insurance and shall make use of the funding, including for the purpose of payments to other authorities concerned, in order to meet the obligations arising in accordance with Articles 23 and 25.
8. In the case of a general notification pursuant to Article 13, a financial guarantee or equivalent insurance covering parts of the general notification may be established, instead of one covering the entire general notification. In such cases, the financial guarantee or equivalent insurance shall apply to the notified shipment which it covers at the latest at the ***time of completion of the movement document according to Article 16(2)*** .
9. The financial guarantee or equivalent insurance referred to in ***paragraph 8*** shall be released when the competent authority ***that has approved it*** has received the certificate referred to in Article 16(4) or, where appropriate, in Article 15(5) as regards interim recovery or *interim* disposal operations for the relevant waste. Paragraph 6 shall apply ***mutatis mutandis***.

10. The Commission shall *assess the feasibility of establishing a simple, risk-based and* harmonised calculation method for determining the amount of financial guarantees or equivalent insurances and, if appropriate, adopt an implementing act to establish such a *simple, risk-based and* harmonised calculation method. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

In carrying out the assessment referred to in the first subparagraph the Commission shall take into account, inter alia, the relevant rules of the Member States relating to the calculation of the financial guarantee or equivalent insurance as referred to in this Article.

Article 8

Requests for information and documentation by the competent authorities concerned

1. If the notification is not properly carried out as referred to in Article 5(4), the competent authority of dispatch shall request information and documentation from the notifier in accordance with Article 5(3) *and where applicable with Article 5(3b)*.
 - 1a.* The request for information and documentation referred to in *paragraph 1* shall be *submitted* to the notifier *as soon as possible, but no later than 10* working days after submission of the notification.
2. The notifier shall provide the information and documentation referred to in paragraph 1 *as soon as possible, and no later than 10 working* days after the request by the competent authority of dispatch. *If requested by the notifier, the competent authority of dispatch may extend this period by a reasonable time if the notifier provides motivated reasons that this is necessary to be able to provide the requested information and documentation.*
3. Where the competent authority of dispatch considers that the notification is still not properly carried out as referred to in Article 5(4), *or additional* information and documentation *as referred to in Article 5(3b) is still required, it may as soon as possible, and no later than seven working days after the end of the period as mentioned in* paragraph 2, *make up to two more requests for information and documentation from the notifier. For such a request, paragraph 2 shall apply mutatis mutandis.*

3a. The competent authority of dispatch *may decide that the notification is not valid and shall not be further processed, if the information and documentation provided is not sufficient or where no information has been provided by the notifier, within the deadline set out in paragraph 2, or where a first request pursuant to paragraph 3 was made, within the deadline set out in that paragraph.*

The competent authority of dispatch shall decide that the notification is not valid and shall not be further processed, if the information and documentation provided upon the final request made in accordance with paragraph 3, is not sufficient or where no information has been provided by the notifier, within the deadline set out in paragraph 3. The competent authority of dispatch shall inform the notifier and the other competent authorities concerned of that decision as soon as possible, but no later than seven working days after the end of the period as mentioned in paragraph 2, or, where applicable, paragraph 3.

4. Where the *competent authority of dispatch considers that the* notification has been properly carried out, as referred to in Article 5(4), *it shall, as soon as possible, but no later than 10 working days after submission of the properly carried out notification, or within seven working days after the end of the period as mentioned in paragraph 2, or, where applicable, paragraph 3, respectively* inform the notifier and other competent authorities concerned thereof.

4a. Where *the competent authority of destination or any competent authority of transit consider that* information and documentation *in accordance with Article 5(3) or additional information and documentation* as referred to in Article 5(3b) *is required* , it shall, *as soon as possible, but no later than 10* working days after receipt of the information as referred to in the *paragraph 4*, request such information and documentation from the notifier and inform the other competent authorities of that request.

5. The notifier shall provide the information and documentation referred to in paragraph 4a, *as soon as possible, but no later than 10 working* days after the request by the competent authority concerned.

If requested by the notifier, the competent authority concerned may extend this period by a reasonable time, if the notifier provides motivated reasons that this is necessary to be able to provide the requested information and documentation.

- 5a.** *Where the competent authority of destination or any competent authority of transit consider that information and documentation in accordance with Article 5(3) or additional information and documentation as referred to in Article 5(3b) is still required, the competent authority concerned may as soon as possible, but no later than seven working days after the end of the period as mentioned in paragraph 5, make up to two more requests for information and documentation from the notifier according to paragraph 4a. For such a request, paragraph 5 shall apply mutatis mutandis.*
- 5b.** *The competent authority of destination or any competent authority of transit may decide that the notification is not valid and shall not be further processed if the information and documentation provided is not sufficient or where no information has been provided by the notifier, within the deadline set out in paragraph 5, or where a first request pursuant to paragraph 5a was made, within the deadline set out in that paragraph.*
The competent authority of destination or any competent authority of transit shall decide that the notification is not valid and shall not be further processed if the information and documentation provided upon the final request made in accordance with paragraph 5, is not sufficient or where no information has been provided by the notifier, within the deadline set out in paragraph 5.

■

The *competent authority of destination or any competent authority of transit shall* inform the notifier and the other ■ competent authorities *concerned of that decision ,as soon as possible, but no later than seven working days after the end of the period as mentioned in paragraph 5, or, where applicable, paragraph 5a.*

- 5c. *The competent authority of destination or any competent authority of transit shall inform the notifier and the other competent authorities concerned that it is satisfied with the properly carried out notification as soon as possible, and no later than three working days after receipt of the information as referred to in paragraph 4 or that it is satisfied with the information and documentation as soon as possible, and no later than three working days after the requested information and documentation have been provided by the notifier pursuant to paragraph 5 and, where relevant, paragraph 5a.*
- 5d. *Where the notification has been properly completed, as referred to in Article 5(5), taking into account the information as referred to in paragraph 5c, the competent authority of destination shall immediately inform the notifier and the competent authority of dispatch and any competent authority of transit concerned.*
6. Where, within 30 *working days starting from the day* after the submission of the notification *or the information and documentation has been provided in accordance with paragraphs 2 or 3*, the competent authority of dispatch has not acted in accordance with *paragraphs 1, 3a or 4*, it shall provide the notifier with a motivated explanation upon request.

Where, within 30 *working* days after the *end* of the *period as mentioned in* paragraph 4a, *or after information and documentation has been provided in accordance with paragraphs 5 or 5a*, the competent authority of destination or any competent authority of transit *has not acted in accordance with paragraph 4a or paragraphs 5a, 5b, 5c or 5d*, it shall provide the notifier with a motivated explanation upon request.

Article 9

Consents by the competent authorities and time periods for shipment, recovery or disposal

1. The competent authorities of destination, dispatch and transit shall take, within 30 days after the ***date on which the notifier has been informed in accordance with Article 8(5d) that the notification has been properly completed***, one of the following duly motivated decisions as regards the notified shipment:
 - (a) consent without conditions;
 - (b) consent with conditions in accordance with Article 10;
 - (c) objections in accordance with Article 12;
 - (d) ***not to consent, where the conditions in accordance with Article 11 are not fulfilled.***

By way of derogation, a competent authority concerned may take a decision in accordance with points (c) or (d) of the first subparagraph before the date on which the notifier has been informed in accordance with Article 8(5d), once the notification has been properly carried out, as referred to in Article 5(4).

By way of derogation, the competent authority of dispatch may take a decision in accordance with points (c) or (d) of the first subparagraph after having received the notification and before having considered it properly carried out, if it is evident that the conditions in Article 11 are not fulfilled or that there are grounds for objection in accordance with Article 12.

Tacit consent by the competent authorities of transit may be assumed if no objection is lodged within the 30-day time limit referred to in the first subparagraph. ■

2. The competent authorities of *dispatch*, destination, and, where appropriate ■ transit, shall *submit* their decision and the reasons *therefore* to the notifier within the 30-day time limit referred to in *the first subparagraph of paragraph 1, and inform the other competent authorities concerned of* that decision. . *The competent authority shall immediately inform the notifier and the other competent authorities concerned of decisions taken in accordance with the second and third subparagraphs of paragraph 1.*

Tacit consents referred to in the fourth subparagraph of paragraph 1 shall be valid for the period as indicated in the written consent in accordance with the first subparagraph given by the competent authority of destination.

Where, within 30 days after *the date on which the notifier*, the competent authority of *dispatch or a competent authority of transit concerned has been informed in accordance with Article 8(5d), any of the competent authorities concerned* has not taken a decision *in accordance with the first subparagraph of paragraph 1* ■ it shall provide the notifier with a motivated explanation upon request.

- 2a. *If a notifier submits a notification according to Article 5 or a general notification according to Article 13, to ship, compared to a consented notification, the same type of waste from the same location in the country of dispatch to the same consignee and the same facility and whereby the countries of transit, if any, are the same, the competent authorities concerned shall take into consideration any information previously submitted in accordance with Articles 5(2), (3) and (3b) or Articles 13(2) and (3) and take a decision in accordance with paragraph 1 of this Article as soon as possible.*

3. A written consent to a planned shipment shall expire on the *earliest date at the end of validity periods* as indicated *by the competent authorities concerned* . It shall not cover a period of more than one calendar year ■ .

4. The planned shipment may take place only after fulfilment of the requirements set out in Article 16(1), **and (2)**, and during the period of validity of the tacit or written consent of all competent authorities concerned ***in accordance with paragraph 3 of this Article. The waste shall have been received by the facility for recovery or disposal before*** the end of the period of validity of the tacit or written ***consent*** of all competent authorities concerned.
5. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year after the receipt of the waste by the facility that recovers or disposes of the shipped waste, unless a shorter period is indicated by the competent authorities concerned in their decision.
6. The competent authorities concerned shall withdraw their tacit or written consent where they have knowledge of any of the following:
 - (a) the composition of the waste is not as notified;
 - (b) the conditions imposed on the shipment are not respected;
 - (c) the waste is not recovered or disposed of in compliance with the permit of the facility that performs the recovery operation or disposal operation;
 - (d) the waste is to be, or has been, shipped, recovered or disposed of in a way that is not in accordance with the information supplied on, or annexed to, the notification and movement documents;
 - (e) ***the termination of the financial guarantee;***
 - (f) ***the termination of the contract;***
 - (g) ***on the request by the notifier.***
7. ***The competent authority concerned shall inform*** the notifier, the ***other*** competent authorities concerned and the consignee ***of any withdrawal of consent, including the reason for such withdrawal.***

8. ***When a consent by any of the competent authorities concerned is withdrawn in accordance with paragraph 6 the shipment or the treatment of waste shall, where applicable, not be allowed to continue and Articles 22 or 24 shall apply, as relevant.***

Article 10

Conditions for a shipment

1. The competent authorities of dispatch, destination and transit may, within the 30-day time limit referred to in Article 9(1), lay down conditions for their consent to a notified shipment. Such conditions shall be ***duly motivated and may be*** based on one or more of ***the conditions listed in Article 11 or*** of the grounds listed in Article 12.
2. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in Article 9(1), lay down conditions in respect of the transport of waste within their national jurisdiction. Such transport conditions shall not be more stringent than those laid down in respect of similar shipments occurring wholly within their national jurisdiction and shall take due account of existing agreements, in particular relevant international agreements.
3. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in Article 9(1), lay down a condition that their consent is to be considered withdrawn if the financial guarantee or equivalent insurance is not applicable at the latest ***at the time of completion of the movement document according to Article 16(2)***, as required by Article 7(3).
4. Conditions shall be specified in, or annexed to, the notification document by the competent authority that lays them down.

5. The competent authority of destination may also, within the 30-day time limit referred to in Article 9(1), lay down a condition that the facility which receives the waste shall keep a regular record of inputs, outputs and/or balances for wastes and the related recovery operations or disposal operations as specified in the notification, and for the period of validity of the notification. Such records shall be signed by a person legally responsible for the facility and shall be **submitted** to the competent authority of destination within one month of completion of the notified recovery operation or disposal operation.

Article 11

Conditions for shipments of waste destined for disposal

1. Where a notification is submitted regarding a planned shipment of waste destined for disposal in accordance with Article 5, the competent authorities of dispatch and of destination shall only give their **■** consent to that shipment, within the 30-day limit referred to in Article 9(1), if all the following conditions are fulfilled:
- (a) the notifier demonstrates that:
 - (i) the waste cannot be recovered in a technically feasible and economically viable manner, or must be disposed of due to legal obligations in Union or international law;
 - (ii) the waste cannot be disposed of in a technically feasible and economically viable manner in the country where it was generated;
 - (iii) the planned shipment or disposal is in accordance with **Article 56 and** the waste hierarchy and the principles of proximity and self-sufficiency **■** as laid down in Directive 2008/98/EC;

- (b) the *competent authorities concerned do not have information that the notifier or the consignee have* been convicted of illegal shipment or any other illegal act in relation to environmental *or human health* protection *in a period of 5 years prior to the notification request*;
- (c) *the competent authorities concerned do not have information that* the notifier or the facility *have not, in a period of 5 years prior to the notification request, repeatedly* failed to comply with Articles 15 and 16 in connection with past shipments of waste;
- (ca) *the Member State of destination has not exercised its right pursuant to Article 4(1) of the Basel Convention to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention*;
- (cb) *the planned shipment and disposal is in accordance with national legislation relating to environmental protection, public order, public safety or health protection in the Member State where the competent authority is located*;
- (d) the planned shipment or disposal does not conflict with obligations resulting from international conventions concluded by the Member State(s) concerned or the Union;
- (e) the waste concerned will be treated in accordance with legally binding environmental protection standards in relation to disposal operations established in Union legislation *and waste management plans drawn up pursuant to Article 28 of Directive 2008/98/EC*, and, if the facility is covered by Directive 2010/75/EU, it shall apply best available techniques as defined in Article 3(10) of that Directive in compliance with the permit of the facility;
- (f) the waste is not mixed municipal waste collected from private households, from other waste producers or both, or mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties.

- 1a. *In the case where the notifier demonstrates that the waste concerned is produced in a Member State of dispatch in such a small quantity overall per year that the provision of new specialised disposal facilities within that Member State would not be economically viable, the conditions set out in paragraph 1, points (a)(ii) and (iii) shall not apply.*
2. *Where a competent authority of transit provides a consent to that shipment in accordance with Article 9(1) only the conditions set out in paragraph 1, points (b), (c), (cb) and (d), of this Article shall be considered.*
4. Consents by competent authorities in accordance with paragraph 1 shall **be communicated in the report in accordance with Article 69. The Commission** shall inform *all* Member States *of such consents taken in the previous calendar year.*
5. *By [OP: Please insert the date of 36 months following the date of entry into force of this Regulation], the Commission shall adopt an implementing act establishing detailed criteria for the uniform application of the conditions laid down in paragraph 1, point (a), to specify how technical feasibility and economic viability in points (a)(i) and (ii) of that paragraph shall be demonstrated by notifiers and assessed by competent authorities. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).*

Article 12

Objections to shipments of waste destined for recovery

1. Where a notification is submitted regarding a planned shipment of waste destined for recovery in accordance with Article 5, the competent authorities of destination and dispatch may, within the 30-day time limit referred to in Article 9(1), raise motivated objections based on one or more of the following grounds:
- (a) the planned shipment or recovery would not be in accordance with Directive 2008/98/EC;

- (b) the waste concerned will not be treated in accordance with waste management plans or waste prevention programmes drawn up *by the countries of dispatch or destination*, respectively, pursuant to Articles 28 and 29 of Directive 2008/98/EC;
- (c) the planned shipment or recovery would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the country of the objecting competent authority;
- (d) the planned shipment or recovery would not be in accordance with national legislation in the country of dispatch relating to the recovery of waste *as well as to the recovery or disposal of residual waste generated through the recovery of the waste concerned*, including where the planned shipment would concern waste destined for recovery in a facility which has lower treatment standards for the particular waste than those of the country of dispatch, respecting the need to ensure the proper functioning of the internal market, unless:
 - (i) there is corresponding Union legislation, in particular related to waste, and requirements that are at least as stringent as those laid down in that Union legislation have been introduced in national legislation transposing such Union legislation;
 - (ii) the recovery operation *and the recovery or disposal of residual waste generated through the recovery of the waste concerned* in the country of destination takes place under conditions that are *considered* equivalent to those prescribed in the national legislation of the country of dispatch;
 - (iii) the national legislation in the country of dispatch, other than that covered by point (i), has not been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council⁴⁶, where required by that Directive;

⁴⁶ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

- (e) limiting incoming shipments of waste destined for recovery operations other than recycling and preparing for re-use is necessary for a Member State in order to protect its waste management network, where it is ***expected, based on available information***, that such shipments would result in domestic waste having to be disposed of or treated in a way that is not consistent with their waste management plans;
- (f) the notifier or the consignee has **■** been convicted of illegal shipment or any other illegal act in relation to environmental ***or human health*** protection ***in a period of 5 years prior to the notification request***.
- (g) the notifier or the facility has, ***in a period of 5 years prior to the notification request***, repeatedly failed to comply with Articles 15 and 16 in connection with past shipments;
- (h) the planned shipment or recovery conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or by the Union;
- (i) the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction of the waste do not justify the recovery, having regard to economic or environmental considerations;
- (j) the waste planned for shipment is destined for disposal and not for recovery;
- (k) the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to recovery operations, or legally binding recovery or recycling obligations established in Union legislation or the waste will be treated in a facility which is covered by Directive 2010/75/EU, but which does not apply best available techniques as defined in Article 3(10) of that Directive.

2. The competent authorities of transit may, within the 30-day time limit referred to in paragraph 1, raise motivated objections to the planned shipment of waste destined for recovery based only on the grounds set out in paragraph 1, points (c), (f), (g) and (h), of this Article.
3. Where, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall immediately inform the notifier thereof.
4. Where the problems giving rise to the objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification of the shipment of waste destined for recovery shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.
5. Objections raised by competent authorities on the grounds set out in paragraph 1, points (d) and (e), of this Article ***and the reasons for these objections shall be communicated*** to the Commission in accordance with Article 69.
- 5a. ***As referred to in Article 9(2), the competent authorities shall inform the notifier of the specific reasons for their objection to a planned shipment of waste.***
6. The ***Member States*** of dispatch shall inform the Commission and the other Member States of the national legislation on which objections raised by competent authorities in accordance with paragraph 1, ***point (d)***, may be based, and shall state to which waste and ***recovery operations as well as the recovery or disposal operations of residual waste generated through the recovery of waste concerned*** those objections apply, before such legislation is invoked as grounds for a motivated objection.

The Member States of destination shall inform the Commission and the other Member States of decisions or legislation on which objections raised by competent authorities in accordance with paragraph 1, point (e), may be based and shall state to which waste and recovery operations those objections apply, before such decisions or legislation is invoked as grounds for a motivated objection.

Article 13

General notification

1. The notifier may submit a general notification covering several shipments where all the following requirements are fulfilled:
 - (a) the waste contained in the different shipments has essentially similar physical and chemical characteristics *as identified in accordance with Article 5(8a)*;
 - (b) the waste contained in the different shipments is shipped to the same consignee and the same facility;
 - (c) the *countries of transit, if any, are the same, and the routing of the different shipments, is indicated in or annexed to the notification document and the location from which the shipment starts* is the same.

2. *The notifier may indicate in an annex attached to the notification document one or more possible alternative routings. The movement document completed in accordance with Article 16(2) shall provide information on which routing indicated in the notification document that will be followed, including possible alternative routings, as indicated in the notification document, in case of unforeseen circumstances.*

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3. The competent authorities concerned may make their agreement to the use of a general notification subject to the subsequent provision of additional information and documentation, in accordance with Article 5(3) *to (5)*

Article 14

Pre-consented recovery facilities

1. A legal or natural person owning or exercising control over a recovery facility may submit a request for that facility to be pre-consented to the competent authority which has jurisdiction over the facility, as designated pursuant to Article 71.

Facilities that only perform operation R13, are not eligible for submitting a request as referred to in the first subparagraph.

2. The request referred to in paragraph 1 shall include the following information:
 - (a) the name, registration number and address of the recovery facility;
 - (b) copies of permits issued to the recovery facility to carry out waste treatment pursuant to Article 23 of Directive 2008/98/EC, as well as, where relevant, standards or certifications with which the facility complies;
 - (c) a description of technologies employed ***to ensure the environmentally sound recovery of waste in the recovery facility***, for which the pre-consent is requested, ***including technologies designed to save energy and limit the emission of greenhouse gases linked to the activities of the facility***;
 - (ca) ***the R-code(s) as referred to in Annex II of Directive 2008/98/EC for the recovery operation(s) for which the pre-consent is requested***;
 - (d) ***the designation and composition of the waste, the physical characteristics and the waste identification for the wastes for which the pre-consent is requested, as listed in Annex IV to this Regulation and in the list of waste referred to in Article 7 of Directive 2008/98/EC***;

- (e) the total quantity of each type of waste for which the pre-consent is requested, compared to the treatment capacity for which the facility is permitted;
 - (ea) the quantity of residual waste generated through the recovery of the waste in relation to the quantity of recovered material, and the planned method of recovery or disposal for the residual waste;**
 - (f) records of the activities of the facility linked to waste recovery, covering in particular the amount and types of waste treated in the last three years, where relevant;
 - (g) evidence or attestation that the legal or natural person owning or exercising control over the facility has not been convicted of illegal shipment or any other illegal act in relation to waste management **in a period of 5 years prior to the request, in particular with regard to the protection of the environment or human health.**
3. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend paragraph 2 as regards the information to be included in the request.
 4. The procedure referred to in paragraphs 5 to 10 of this Article shall apply to pre-consent a facility for which a request was submitted in accordance with paragraph 1.
 5. The competent authority shall, within **55** days after the date of receipt of the request referred to in paragraph 1 **and containing the information as referred to in paragraph 2**, assess the request and decide whether to approve it.
 6. Where the legal or natural person referred to in paragraph 1 has provided all the information referred to in paragraph 2, the competent authority shall approve the request and issue a pre-consent for the facility concerned. The pre-consent may contain conditions relating to the duration of the pre-consent, the types and quantities of waste covered by the pre-consent, the technologies used or other conditions necessary to ensure that the waste is managed in an environmentally sound manner.

7. By way of derogation from paragraph 6, the competent authority may refuse to approve the request for pre-consent when they are not satisfied that issuing the pre-consent will ensure ***that the waste will be managed in accordance with the waste hierarchy and other requirements laid down in Directive 2008/98/EC and, where relevant, that best available techniques are applied in accordance with conclusions established under Directive 2010/75/EU.***
8. The decision to approve or refuse the request for pre-consent shall be communicated to the legal or natural person that submitted the request as soon as it is taken by the competent authority and shall be duly motivated.
9. ***The pre-consent of a recovery facility shall be valid for ten years, unless stated otherwise in the decision to approve the request for pre-consent. During this period the competent authority shall conduct at least one inspection in accordance with Article 57. Additional inspections shall be conducted if needed pursuant to the risk-based assessment approach as referred to in Article 59.***
10. A pre-consent of a recovery facility may be revoked at any time by the competent authority, ***if information becomes available which shows that the information provided in accordance with paragraph 2 is false or that the conditions in paragraph 6 are no longer fulfilled.*** A decision to revoke a pre-consent shall be duly motivated and communicated to the facility concerned.
11. The legal or natural person referred to in paragraph 1 shall immediately inform the competent authority concerned of any change in the information referred to in paragraph 2. The competent authority concerned shall duly ***assess*** those changes **■** and, if necessary, update ***or revoke*** the pre-consent.
12. In the case of a general notification submitted in accordance with Article 13 relating to shipments destined to a pre-consented facility, the period of validity of the consent referred to in Article 9(3) shall be extended to three years. By way of derogation from this rule, the competent authorities concerned may decide to shorten that period in duly justified cases.
13. The competent authorities that have issued a pre-consent to a facility in accordance with this Article shall, using the form set out in Annex VI, inform the Commission and, where appropriate, the OECD Secretariat of the following:

- (a) the name, registration number and address of the recovery facility;
 - (b) a description of the technologies employed, *and the R-code(s) as referred to in Annex II of Directive 2008/98/EC*;
 - (c) the *waste identification for* the wastes to which the pre-consent applies;
 - (d) the total pre-consented quantity;
 - (e) the period of validity;
 - (f) any change in the pre-consent;
 - (g) any change in the information notified;
 - (h) any revocation of the pre-consent.
14. By way of derogation from Articles 9, 10 and 12, the consent given in accordance with Article 9(1), the conditions imposed in accordance with Article 10 or the objections raised in accordance with Article 12 by all the competent authorities concerned in respect to a notification for shipments destined to a pre-consented facility shall be subject to a time limit of seven working days after *the date on which the notifier has been informed in accordance with Article 8(5d) that the notification has been properly completed*.
15. If one or more competent authorities wish to request additional information in accordance with Article *8(1a), (3), (4a) or (5a)*, in relation to a notification for shipments to a pre-consented facility, the time periods mentioned in *those paragraphs*, as well as in Article *8(2) and (5)*, shall be shortened to
- (a) five working days for Article 8(1a), (2), (4a) and (5), and*
 - (b) three working days for Article 8(3) and (5a).*

16. Notwithstanding paragraph 14, *a* competent authority **concerned** may decide that more time is needed in order to receive further information or documentation from the notifier.

In such cases, that competent authority shall, within seven working days **after the date on which the notifier has been informed in accordance with Article 8(5d) that the notification has been properly completed**, inform the notifier **and the other competent authorities concerned**.

The total time needed to take one of the decisions as referred to in Article 9(1) shall not exceed 30 days **after the date on which the notifier has been informed** in accordance with **Art 8(5d) that the notification has been properly completed**.

Article 15

Additional provisions regarding interim recovery operations and interim disposal operations

1. Where a shipment of waste is destined for an interim recovery operation or an interim disposal operation, all the facilities where subsequent interim as well as non-interim recovery operations and interim disposal **as well as non-interim disposal** operations are envisaged shall also be indicated in the notification document in addition to the initial interim recovery operation or interim disposal operation.
2. The competent authorities of dispatch and destination may give their consent to a shipment of waste destined for an interim recovery operation or interim disposal operation only if **they consider the conditions in Article 11 fulfilled or if they do not find reason to raise an** objection, in accordance with Article 12, **concerning** the shipment(s) of waste to the facilities performing any subsequent interim or non-interim recovery operations or interim **or non-interim** disposal operations.

3. Within **two working days** of the receipt of the waste by the facility which carries out the interim recovery operation or interim disposal operation, that facility shall provide confirmation to the notifier **and the competent authorities concerned** that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document.
4. As soon as possible, but no later than 30 days after completion of the interim recovery operation or interim disposal operation, and no later than one calendar year, or the shorter period referred to in Article 9(5), after the receipt of the waste, the facility carrying out this operation shall, under its responsibility, provide a certificate **to the notifier and the competent authorities concerned** that the operation has been completed. **This certificate shall be supplied on or annexed to the movement document.**



5. When a recovery or disposal facility which carries out an interim recovery operation or interim disposal operation delivers the waste for any subsequent interim or non-interim recovery **operation or interim or non-interim** disposal operation to a facility located in the country of destination, it shall obtain as soon as possible and no later than one calendar year, or the shorter period referred to in Article 9(5), after delivery of the waste a certificate from that facility that the subsequent **interim and non-interim** recovery **and interim and non-interim** disposal operation has been completed.

The said facility that carries out an interim recovery **operation -or interim** disposal operation shall promptly transmit, the relevant certificates to the notifier and the competent authorities concerned, identifying the shipments to which the certificates pertain.

- 5a. *In order to ensure the consistency of the content of the certificate in the first subparagraph of paragraph 5 throughout the Union, the Commission shall, in good time before adopting the implementing act according to Article 26(4), and at the latest by [OP: Please insert date of twelve months after the date of entry into force of this Regulation], adopt a delegated act supplementing this Article establishing the information to be provided in such a certificate. That delegated act shall be adopted in accordance with Article 76.*
6. When a delivery as described in paragraph 5 is made to a facility located in the initial country of dispatch or in another Member State, a new notification shall be required in accordance with this Regulation, *in case it concerns shipments of waste as referred to in Article 4(1) or (2).*
7. When a delivery as described in paragraph 5 is made to a facility in a third country, a new notification shall be required in accordance with this Regulation, *in case it concerns shipments of waste as referred to in Article 4(1) or (2)*, and the provisions concerning the competent authorities concerned shall also apply to the initial competent authority of the initial country of dispatch.

Article 16

Requirements following consent to a shipment

1. After consent has been given to a notified shipment by the competent authorities concerned, all undertakings involved shall complete the movement document, or, in the case of a general notification, the movement documents at the points indicated. They shall ensure that the information in the movement document is made electronically available *in accordance with Article 26*, including during the time of the transport, to the *other natural and legal persons involved in the shipment, the competent authorities concerned and the authorities involved in inspections.*

2. When the notifier has received written consent from the competent authorities of dispatch, destination and transit or may assume tacit consent in relation to the competent **authority of transit**, he or she shall provide the actual date of shipment and complete the movement document to the extent possible, ***in accordance with the instructions for completing the notification and movement documents in Annex IA and IB according to Article 5(3a), and submit it to the competent authorities concerned and to the consignee***, at least ***two*** working ***days*** before the shipment starts. ***As an exception, information on the actual quantity of the waste, carrier(s) and, if applicable, container identification number may be submitted at the latest before the actual start of the shipment.***
 - 2a. ***The notifier shall ensure that, in addition to the obligation set out in paragraph 1, the notification document containing the written consents of and the conditions given by the competent authorities concerned are made electronically available, including during the time of the transport, to the competent authorities concerned and to the authorities involved in inspections.***
 - 2b. ***Where the documents referred to in paragraphs 1 and 2a cannot be made available online during the transport, the notifier and the carrier(s) shall ensure that the documents are available offline in the transport vehicle. In such cases, the notifier shall ensure that any changes or additions to the documents during the transport are submitted to a system as mentioned in Article 26.***
3. The facility shall, within ***two working days*** of receipt of the waste, provide confirmation to the notifier and the ***competent authorities concerned*** that the waste has been received. ***This confirmation shall be supplied on, or annexed to, the movement document.***
4. The facility carrying out a non-interim recovery operation or disposal operation shall, as soon as possible and no later than 30 days after completion of that operation, and no later than one calendar year, or the shorter period referred to in Article 9(5), after receipt of the waste, certify, under its responsibility, that the non-interim recovery or disposal has been completed.

5. The certificate referred to in paragraph 4, shall be submitted to the notifier and the *competent authorities concerned*.

Article 17

Changes after consent

1. If any essential change is made to the details *or* conditions of the consented shipment, the notifier shall inform, the competent authorities concerned and the consignee immediately and, where possible, before the shipment starts. ***Essential changes include, but are not limited to, changes in the intended quantity of waste, in the routing, including possible alternative routings, date of shipment or carrier(s) compared to those indicated in the notification, or to the duration of the shipment due to unforeseen circumstances occurring after the start of the shipment, leading to the shipment exceeding its period of validity.***
2. In cases of essential changes referred to in paragraph 1, a new notification shall be submitted, unless all the competent authorities concerned ***inform the notifier***, that the proposed changes do not require a new notification. ***The competent authorities concerned shall inform the notifier as soon as possible but no later than five working days after receipt of the information. The planned shipment shall not take place until the notifier has been informed by the competent authorities concerned. Where a shipment has already started, the notifier shall ensure that its movement is halted as soon as practicable until being informed by the competent authorities concerned whether a new notification is required.***
3. Where essential changes referred to in paragraph 1 involve competent authorities other than those concerned in the original notification, a new notification shall be submitted.

Chapter 2

General information requirements

Article 18

Waste to be accompanied by certain information

1. Waste referred to in Article 4(3) and (4) that is intended to be shipped shall be subject to the general information requirements set out in paragraphs *1a* to 7 of this Article.
- 1a. A shipment referred to in paragraph 1 may only be arranged by a person who arranges a shipment referred to in Article 3, points (6a)(ii), (iii) and (iv) when it has obtained a permit or is registered in accordance with Chapter IV of Directive 2008/98/EC.*
- 1aa. A person who arranges a shipment shall only ship waste to a waste recovery facility which has obtained a permit or registration in accordance with Chapter IV of Directive 2008/98/EC. The facility has to present the permit or proof of registration to the person who arranges the shipment before the shipment occurs.*
- 1b. All undertakings involved shall complete the relevant information contained in Annex VII at the points indicated and ensure that the information is made electronically available in accordance with Article 26, including during the time of the transport, to the other persons involved in the shipment, the competent authorities concerned and the authorities involved in inspections.*

When the person who arranges the shipment is not the original waste producer referred to in Article 3, point (6a)(i), the person who arranges the shipment shall ensure that the original waste producer or one of the persons indicated in Article 3, points (6a)(ii), (iii) or (v), where practicable, also signs the Annex VII document.

2. The person █ who arranges the shipment shall complete █ the relevant information contained in Annex VII *to the extent possible*, no later than *two working days* before the shipment *starts*. *As an exception, information on the actual quantity of the waste, carrier(s) and, if applicable, container identification number may be submitted at the latest before the actual start of the shipment.*

2a. *Where the information referred to in paragraph 1b and 2 cannot be made available online during the transport, the person who arranges the shipment and the carrier(s) shall ensure that the information is available by other means in the transport vehicle, provided that the information is consistent with the information made available electronically in accordance with paragraph 1b and 2. In such cases, the person who arranges the shipment shall ensure that any changes or additions to the documents during the transport are submitted to a system as mentioned in Article 26.*

2b. *Where a shipment of waste is destined for an interim recovery operation, the facility where the interim or non-interim operations directly following the initial interim operation and the R-codes of these operations, shall also be indicated in the Annex VII document in addition to the initial interim recovery operation, as well as, where practicable, the facilities where subsequent interim as well as non-interim recovery operations are envisaged and the R-codes of these operations.*

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4. The recovery facility or the laboratory *shall, within two working days of receipt of the waste, provide confirmation to the person who arranges the shipment that the waste has been received by completing the relevant information contained in Annex VII. In case the recovery facility or the laboratory have no access to a system referred to in Article 26, they shall provide the confirmation via the person who arranges the shipment.*

5. The recovery facility shall, as soon as possible and no later than 30 days after completion of the recovery operation, and no later than one calendar year after receipt of the waste, certify, under its responsibility, that the recovery has been completed by completing the relevant information contained in Annex VII. ***In case the recovery facility has no access to a system referred to in Article 26, it shall provide the confirmation via the person who arranges the shipment.***

7. ***All shipments of waste referred to in Article 4(3) and (4) shall be subject to the requirement of the conclusion of a contract between the person who arranges the shipment and the consignee for the recovery of the waste. If the consignee is not the operator of the facility, the contract shall also be signed by the operator of the facility.***

The contract referred to in ***the first subparagraph shall be concluded and effective at the latest at the time*** when the ***information contained in Annex VII*** is completed in accordance with paragraph 2 and for the duration of the shipment ***until a certificate is issued in accordance with paragraph 5.***

The contract shall be consistent with the corresponding Annex VII document(s) and at least contain information on the person who arranges the shipment, the consignee and the facility, together with an identification of persons representing each party, the description of the waste, the waste identification codes, the quantity of waste covered by the contract, the recovery operation and the period of validity of the contract.

The contract shall include an obligation, where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, on the person who arranges the shipment or, where that person is not in a position to complete the shipment of waste or its recovery, on the consignee, to take the waste back or ensure its recovery in an alternative way; and to provide, if necessary, for its storage in the meantime.

8. The person who arranges the shipment or the consignee shall provide a copy of the contract referred to in paragraph 7 *and of any agreement according to Article 4(4)* to the *authorities involved in inspections upon their* request.
9. The information required in Annex VII shall be available for inspection, enforcement, planning and statistical purposes by Member States and the Commission, in accordance with Article 26 and national legislation.
10. The information referred to in *paragraphs 2 to 5* shall be treated as confidential where this is required by Union or national legislation.
11. Where the waste is shipped between two establishments under the control of the same legal entity, the contract referred to in paragraph 7 may be replaced by a declaration by that legal entity. That declaration shall cover mutatis mutandis the obligations referred to in paragraph 7.
12. *At the latest by [OP: Please insert the date of 24 months following the date of entry into force of this Regulation], the Commission is empowered to adopt a delegated act in accordance with Article 76 to supplement this Regulation by setting out instructions on how to complete the document in Annex VII.*

Chapter 3

Mixing waste, documentation and access to information

Article 19

Prohibition on mixing waste during shipment

From the start of the shipment to the receipt of the waste in a recovery or disposal facility, the waste, as specified in the notification or as referred to in Article 18, shall not be mixed with other waste *or other substances or objects*.

Article 20

Keeping of documents and information

1. The competent authorities, the notifier, the consignee and the facility which receives the waste shall keep *in the Union all information and documents submitted or exchanged* in relation to notified *shipments* for at least five years from the date when *a certificate according to Articles 15(4) or 16(4) has been provided*. In the case of general notifications in accordance with Article 13, that obligation shall apply from the date when the last *certificate according to Articles 15(4) or 16(4) has been provided*.
2. Information *provided* pursuant to Article 18 shall be kept in the Union for at least five years from the date when *a certificate according to Article 18(5) has been provided*, by the person who arranges **■** the shipment, the consignee and the facility which receives the waste.
3. *The competent authorities shall keep in the Union all information and documents submitted or exchanged in relation to illegal shipments for at least five years from the date when a take-back or alternative recovery or disposal has been completed.*

Article 21

Publication of information on notifications of shipments and on shipments of waste subject to the general information requirements

The Commission shall publish the information on notifications of shipments and on shipments of waste subject to the general information requirements contained in Annex XIa via its website and update it on a monthly basis. The Commission shall for that purpose extract the relevant data from the central system as referred to in Article 26.

Chapter 4

Take-back obligations

Article 22

Take-back when a consented shipment cannot be completed as intended

1. Where any of the competent authorities concerned becomes aware that a shipment of waste, ***or*** its recovery or disposal, ***to which the competent authorities concerned has given consent***, cannot be completed as intended in accordance with the terms of the notification and movement documents ***or*** contract referred to Article 6 ***and where such shipment is not an illegal shipment***, it shall immediately inform the competent authority of dispatch thereof. Where a recovery or disposal facility rejects a shipment received, it shall immediately inform the competent authority of destination.
2. The competent authority of dispatch shall ensure that, except in cases referred to in paragraph 3, the waste in question is taken back to its area of jurisdiction or elsewhere within the country of dispatch by the notifier, ***or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 10 or 10a in order to arrange for its disposal or recovery***. Where that is ***impracticable***, that competent authority itself or a natural or legal person on its behalf shall comply with the provisions of this Article.

The take-back referred to in the first subparagraph shall take place within 90 days, or such other period as may be agreed between the competent authorities concerned, after the competent authority of dispatch becomes aware or has been advised by the competent authorities of destination or transit that the consented shipment of waste or its recovery or disposal cannot be completed as intended and has been informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

3. The take-back obligation set out in paragraph 2 shall not apply if the competent authorities of dispatch, transit and destination **concerned** are satisfied that the waste can be recovered or disposed of in an alternative way in the country of destination or elsewhere by the notifier, **or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 10 or 10a**, or, if that is **impracticable**, by the competent authority of dispatch or by a natural or legal person on its behalf.

The take-back obligation set out in paragraph 2 shall not apply if the waste shipped has, in the course of the operation at the facility concerned, been irreversibly mixed with other waste, **so that its composition or nature has changed or can no longer be separated** before a competent authority concerned has become aware of the fact that the notified shipment cannot be completed as referred to in paragraph 1. Such mixture shall be recovered or disposed of in an alternative way in accordance with the first subparagraph of this paragraph.

- 3a. In cases of alternative arrangements as referred to in paragraph 3, the notifier, or, where relevant, the person deemed to be the notifier in accordance with paragraphs 10 or 10a, or, if that is impracticable, the competent authority of dispatch or the natural or legal person on its behalf, shall ensure that the waste concerned is managed in an environmentally sound manner and in accordance with Article 56.**

4. In cases of take-back as referred to in paragraph 2, a new notification shall be submitted, unless the competent authorities concerned agree that a duly motivated request by the initial competent authority of dispatch is sufficient.

A new notification, where appropriate, shall be submitted by the initial notifier or, **where relevant, a person deemed to be the notifier** in accordance with **paragraphs 10 or 10a**, or, if that is also **impracticable**, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

The competent authorities shall not oppose or object to the return of waste from a shipment that cannot be completed **as intended** or to the related recovery and disposal operation.

5. In cases of alternative arrangements outside the initial country of destination as referred to in paragraph 3, a new notification, where appropriate, shall be submitted by the initial notifier or, *where relevant, a person deemed to be the notifier* in accordance with *paragraphs 10 or 10a* or, if that is *impracticable*, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

When such a new notification is submitted by the notifier, it shall also be submitted to the competent authority of the initial country of dispatch.

6. In cases of alternative arrangements in the initial country of destination as referred to in paragraph 3, a new notification shall not be required and a duly motivated request shall suffice. Such a duly motivated request, seeking agreement to the alternative arrangement, shall be submitted to the competent *authorities* of destination and dispatch by the initial notifier or, if that is *impracticable*, to the competent authority of destination by the initial competent authority of dispatch.

7. If no new notification is to be submitted in accordance with paragraphs 4 or 6, a new movement document shall be completed in accordance with Article 15 or Article 16 by the initial notifier or, *where relevant, a person deemed to be the notifier* in accordance with *paragraphs 10 or 10a* or, if that is *impracticable*, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

Where a new notification is submitted by the initial competent authority of dispatch in accordance with paragraphs 4 or 5, a new financial guarantee or equivalent insurance shall not be required. ■

8. The obligation of the notifier and the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility issues the certificate of non-interim recovery or disposal referred to in Article 16(4), or, where appropriate, in Article 15(5). In the case of interim recovery or disposal referred to in Article 7(6), the subsidiary obligation of the country of dispatch shall end when the facility issues the certificate referred to in Article 15(4).

Where a facility issues a certificate of recovery or disposal in such a way that it results in an illegal shipment, with the consequence that the financial guarantee is released, Article 24(4) and Article 25(2) shall apply.

9. Where waste from a shipment which cannot be completed *as intended, or* its recovery or disposal, is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.
10. Where a notifier specified in Article 3, point (6)(a)(iv), fails to fulfil any of the take-back obligations set out in this Article and Article 23, the original waste producer, the new waste producer or the collector specified in Article 3, points (6)(a)(i), (ii) or (iii), respectively who authorised the dealer or broker to act on its behalf shall be deemed to be the notifier for the purposes of those take-back obligations.
- 10a. *Where a notifier specified in Article 3, points (6)(a)(i), (ii) or (iii), fails to fulfil any of the take-back obligations set out in this Article and Article 23, the waste holder specified in Article 3, point (6)(a)(v), shall be deemed to be the notifier for the purpose of those take-back obligations.***

Article 22a

Take-back when a shipment subject to general information requirements cannot be completed as intended

1. *In the case a shipment referred to in Article 4(3) or (4) cannot be completed as intended, in accordance with the information contained in Annex VII or the contract referred to Article 18(7), and where such shipment is not an illegal shipment, the person who has arranged the shipment in accordance with Article 18 shall immediately inform the competent authority of dispatch thereof. In such cases, the person who arranges the shipment or the consignee, following the obligations of the contract referred to in Article 18(7), shall take the waste back to the country of dispatch or ensure its recovery in an alternative way in the country of destination or elsewhere, and ensure, if necessary, that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.*

The take-back or recovery of the waste in an alternative way shall take place within 90 days or any other period agreed between the competent authorities concerned after the date on which the person who arranges the shipment informed the competent authority of dispatch in accordance with the first subparagraph.

- 1a. *In cases of alternative arrangements as referred to in paragraph 1, the person who arranges the shipment or the consignee, as relevant, shall ensure that the waste concerned is managed in an environmentally sound manner and in accordance with Article 56.*
2. *In cases of take back or alternative arrangements outside the initial country of destination, as referred to in paragraph 1, relevant information contained in Annex VII shall be completed and submitted by the initial person who has arranged the shipment in accordance with Article 18. In case the shipment for take back or alternative arrangements is subject to Article 4(1) or (2), Article 22 shall apply mutatis mutandis.*

3. *Where the competent authority of dispatch becomes aware that a shipment referred to in Article 4(3) or (4) has not been completed as intended and that the obligations to take the waste back or arrange for its alternative recovery in accordance with paragraph 1 have not been fulfilled, the competent authority of dispatch shall take all necessary measures to ensure that the person that has arranged the shipment takes the waste back or arranges for its recovery in an alternative way and ensures, if necessary, that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way. Where it is impracticable for the person that has arranged the shipment to fulfil the take-back obligations, these obligations shall be fulfilled by a person deemed to be the person who arranges the shipment in accordance with paragraphs 4 or 5, where relevant.*
4. *Where a person who arranges the shipment specified in Article 3, point (6a)(iv), fails to fulfil any of the take-back obligations set out in this Article and Article 23, the original waste producer, the new waste producer or the collector specified in Article 3, points (6a)(i), (ii) or (iii), respectively who authorised the dealer or broker to act on its behalf shall be deemed to be the person who arranges the shipment for the purpose of those take-back obligations.*
5. *Where the person who arranges the shipment specified in Article 3, points (6a)(i), (ii) or (iii) fails to fulfil any of the take-back obligations set out in this Article and Article 23, the waste holder specified in Article 3, point (6a)(v), shall be deemed to be the person who arranges the shipment for the purpose of those take-back obligations.*
6. *Where it is impracticable for the person that arranges the shipment or a person deemed responsible in accordance with paragraphs 4 or 5 to fulfil the take-back obligations set out in paragraph 3, the competent authority of dispatch or a natural or legal person on its behalf shall comply with this Article.*

Article 23

Costs for take-back when a shipment cannot be completed as intended

1. Costs arising from the return of waste from a shipment that cannot be completed ***as intended***, including costs of its transport, recovery or disposal pursuant to Article 22(2) or (3), and, as of the date on which the competent authority of dispatch becomes aware that a shipment of waste or its recovery or disposal cannot be completed ***as intended***, storage costs pursuant to Article 22(9) shall be charged in accordance with the following order:
 - (a) to the ***initial notifier or, if impracticable***, to the person referred to in point (b);
 - (aa) ***to a person deemed to be the notifier in accordance with Article 22(10) or (10a), where relevant; or, if that is also impracticable, to the person referred to in point (b);***
 - (b) to other natural or legal persons as appropriate; or ■ if that is also ***impracticable, in accordance with*** point (c);
 - (c) to the competent authority of dispatch; or, if that is also ***impracticable*** in accordance with point (d);
 - (d) as otherwise agreed between the competent authorities concerned.
- 1a. Before charging costs to someone else than the initial notifier the financial guarantee or equivalent insurance referred to in Article 7 shall be used. If there is no financial guarantee or if the costs exceed the amount of the cover of the financial guarantee or equivalent insurance the costs shall be charged following the order indicated in paragraph 1(a) to (d).***
- 1b. This Article shall apply mutatis mutandis to costs arising from the take-back or alternative recovery of wastes in accordance with Article 22a.***
2. This Article shall be without prejudice to Union and national provisions concerning liability.

Take-back when a shipment is illegal

1. Where a competent authority discovers a shipment that it considers to be an illegal shipment, it shall immediately inform the other competent authorities concerned.
 2. Where the responsibility of an illegal shipment can be imputed to the notifier, the competent authority of dispatch shall ensure that the waste in question is:
 - (a) taken back by the notifier *or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 3 or 3a*, in order to arrange for its disposal or recovery; or *if impracticable, in accordance with point (c)*; or if no notification has been submitted, in accordance with point (b);
 - (b) taken back by *a person deemed to be the notifier, in accordance with Article 3, point (6), or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 3 or 3a*; in order to arrange for its disposal or recovery; or ■ if that is *impracticable*, in accordance with point (c);
 - (c) taken back by the competent authority of dispatch itself or by a natural or legal person on its behalf in order to arrange for its disposal or recovery; ■
- 2a. *The take-back obligation set out in paragraph 2 shall not apply if the competent authorities of dispatch, transit and destination concerned and, where relevant, the notifier or person deemed to be the notifier, agree and are satisfied that the waste can be:***
- (a) alternatively recovered or disposed of in the country of destination, *transit* or dispatch by the *notifier or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 3 or 3a, or, if that is impracticable, by* competent authority of dispatch itself or by a natural or legal person on its behalf; or, if that is *impracticable*, in accordance with point (b);

(b) alternatively recovered or disposed of in another country by the *notifier or, where relevant, by a person deemed to be the notifier in accordance with paragraphs 3 or 3a, or, if that is impracticable, by the* competent authority of dispatch itself or by a natural or legal person on its behalf if all the competent authorities concerned agree.

In case of export or import, an alternative recovery or disposal agreed upon pursuant to the first subparagraph shall only take place if the take-back according to paragraph 2 is impracticable.

2aa. *In cases of alternative arrangements as referred to in paragraph 2a, the notifier, or, where relevant, the person deemed to be the notifier in accordance with paragraphs 3 or 3a, or, if that is impracticable, the competent authority of dispatch or the natural or legal person on its behalf, shall ensure that the waste concerned is managed in an environmentally sound manner and in accordance with Article 56.*

2b. The take-back, recovery or disposal referred to in *paragraphs 2 and 2a* shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of dispatch becomes aware of, or has been advised by the competent authorities of destination or transit of the illegal shipment and informed of the reasons *therefore*. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

In cases of take-back as referred to in the *paragraph 2*, points (a), (b) and (c), a new notification shall be submitted, unless the competent authorities concerned agree that a duly motivated request by the initial competent authority of dispatch is sufficient.

The new notification shall be submitted by the person or authority listed in the *paragraph 2*, points (a), (b) or (c), and in accordance with that order.

The competent authorities shall not oppose or object to the return of waste of an illegal shipment. In the case of alternative arrangements as referred to in *paragraph 2a*, points (a) and (b), *outside the country where the illegal shipment has been discovered*, a new notification shall be submitted by the *person or authority listed in those points and in accordance with that order* .

The competent authorities concerned shall cooperate, as necessary, to ensure that the waste in question is taken back or alternatively recovered or disposed of as referred to in paragraphs 2 and 2a.

3. Where a notifier specified in Article 3, point (6)(a)(iv), fails to fulfil any of the take-back obligations set out in this Article and Article 25, the original waste producer, the new waste producer or the collector specified in Article 3, points (6)(a)(i), (ii) or (iii), respectively who authorised that dealer or broker to act on its behalf shall be deemed to be the notifier for the purposes of those take-back obligations.

3a. Where a notifier specified in Article 3, points (6)(a)(i), (ii) or (iii), fails to fulfil any of the take back obligations set out in this Article and Article 25, the waste holder as specified in Article 3, point (6)(a)(v), shall be deemed to be the notifier for the purposes of those take-back obligations.

4. Where the responsibility of an illegal shipment can be imputed to the consignee, the competent authority of destination shall ensure that the waste in question is recovered or disposed of in an environmentally sound manner:

(a) by the consignee; or, if that is ***impracticable***, in accordance with point (b);

(b) by the competent authority itself or by a natural or legal person on its behalf.

The recovery or disposal referred to in the first subparagraph shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of destination becomes aware of or has been advised by the competent authorities of dispatch or transit of the illegal shipment and informed of the reason(s) therefore. Such advice may result from information submitted to the competent authorities of dispatch and transit, inter alia, by other competent authorities.

The competent authorities concerned shall cooperate, as necessary, in the recovery or disposal of the waste in accordance with this paragraph.

5. Where no new notification is to be submitted, a new movement document shall be completed in accordance with Articles 15 or 16 by the person responsible for take-back or, if that is *impracticable*, by the initial competent authority of dispatch.

Where a new notification is submitted by the initial competent authority of dispatch, *which carries out the take-back in accordance with paragraph 2, point (c)*, a new financial guarantee or equivalent insurance shall not be required.

6. In cases where responsibility for the illegal shipment cannot be imputed to either the notifier or the consignee, the competent authorities concerned shall cooperate to ensure that the waste in question is recovered or disposed of.
7. In case of interim recovery or disposal referred to in Article 7(6) where an illegal shipment is discovered after completion of the interim recovery operation or interim disposal operation, the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility has issued the certificate referred to in Article 15(4).

Where a facility issues a certificate of recovery or disposal in such a way that it results in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 4 of this Article and Article 25(2) shall apply.

8. Where the waste of an illegal shipment is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.
9. Articles 34, 36, 37 and any export prohibitions contained in a delegated act referred to in *Article 42* shall not apply in cases where illegal shipments are returned to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those *provisions*.

10. In the case of *a shipment of waste* referred to in Article 4(3) or (4) *that is considered to be illegal, the provisions of this Article shall apply mutatis mutandis* to the *person who arranges the shipments and to the competent authorities concerned*.
11. This Article shall be without prejudice to Union and national provisions concerning liability.

Article 25

Costs for take-back when a shipment is illegal

1. Costs arising from the take-back of waste of an illegal shipment, including costs of its transport, recovery or disposal, pursuant to Article 24(2) *or (2a)* and, as of the date on which the competent authority of dispatch becomes aware that a shipment is illegal, storage costs pursuant to Article 24(8), shall be charged to:
 - (a) the notifier *or a person deemed to be the notifier*, as referred to in Article 24(2), point (a); *or, if impracticable, in accordance with* point (c); or, if no notification has been submitted, in accordance with point (b);
 - (b) *the person deemed to be* the notifier, *as referred to in Article 24(2), point (b)*, or other natural or legal persons as appropriate; or, if *impracticable*, in accordance with point (c);
 - (c) the competent authority of dispatch.
2. Costs arising from recovery or disposal pursuant to Article 24(4), including possible transport and storage costs pursuant to Article 24(8), shall be charged to the consignee; or, if *impracticable*, to the competent authority of destination.

3. Costs arising from recovery or disposal pursuant to Article 24(6), including possible transport and storage costs pursuant to Article 24(8), shall be charged to:
- (a) the notifier *or a person deemed to be the notifier in accordance with Article 24(2), point (b), Article 24(3) or Article 24(3a)*, and/or the consignee, depending upon the decision by the competent authorities concerned; or, if *impracticable*, in accordance with point (b);
 - (b) other natural or legal persons as appropriate; or, if that is also impossible, in accordance with point (c);
 - (c) the competent authorities of dispatch and destination.
- 3a. *In cases where a notification has been submitted and the notifier does not fulfill its responsibilities for the costs being charged, the financial guarantee or equivalent insurance referred to in Article 7 shall be used before charging costs in accordance with paragraphs 1, 2 or 3 to someone else than the notifier or the consignee respectively. If the costs exceed the amount of cover of the financial guarantee or equivalent insurance, the costs shall be charged following the order indicated in paragraphs 1, 2 and 3.***
4. In the case of *a shipment of waste* referred to in Article 4(3) or (4) *that is considered to be illegal, the provisions of this Article shall apply mutatis mutandis to the person who arranges the shipments and to the competent authorities concerned.*
5. This Article shall be without prejudice to Union and national provisions concerning liability.

Chapter 5

General administrative provisions

Article 26

Electronic submission and exchange of information

1. The following information and documents shall be submitted and exchanged via electronic means *via the hub of* the central system referred to in paragraph 2, or via *other available interoperable systems or software* in accordance with paragraph 3:
 - (a) For waste as referred to in Article 4(1) and (2):
 - (i) notification of a planned shipment pursuant to Articles 5 and 13;
 - (ii) request(s) for information and documentation pursuant to Articles 5 and 8;
 - (iii) **■** information and documentation pursuant to Articles 5 and 8;
 - (iv) information and decisions pursuant to Article 8;
 - (v) consent *or objection* to a notified shipment and, if applicable *a withdrawal of a consent* thereof pursuant to Article 9;
 - (vi) *information and* conditions for a shipment pursuant to Article 10;
 - (via) information pursuant to Article 11;*
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 - (viii) *information and* objections to a shipment pursuant to Article 12;
 - (ix) information on decisions to issue pre-consents to specific recovery facilities pursuant to Article 14(8) and (10);
 - (x) information and decisions pursuant to Article 14(**■** 15);
 - (xi) *confirmations* of receipt of the waste pursuant to Articles 15 and 16;

- (xii) certificate for recovery or disposal of the waste pursuant to Articles 15 and 16;
- (xiii) prior information regarding the actual start of the shipment pursuant to Article 16;
- (xiv) the documents to accompany each transport in accordance with Article 16;
- (xv) information pursuant to Article 17;

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- (b) For waste referred to in Article 4(3) *and* (4), information and documentation, *confirmation and certificates pursuant to* Article 18;
- (c) *information and documents related to the procedure of prior written notification and consent and the general information requirements pursuant to Articles 31 and 32 and Titles IV, V and VI, where applicable.*

1a. *In order to keep the list of information and documentation updated to the changes of the systems for the exchange and submission under electronic means, the Commission is empowered to adopt delegated acts in accordance with Article 76 to amend paragraph 1 in order to modify the list of information and documentation thereof.*

2. The Commission shall operate a central system that allows for the electronic submission and exchange of information and documents referred to in paragraph 1. That central system shall provide a hub that shall be used for the exchange in real time of the information and documents referred to in paragraph 1 between *available* systems *or software* for electronic data interchange.

The hub referred to in the first subparagraph of this paragraph shall also be used for the exchange in real time of the information and documents referred to in paragraph 1 for shipments within the Union with transit via third countries, export from the Union, import into the Union and transit through the Union, in case competent authorities, customs offices of export, exit and entry, authorities involved in inspections and economic operators in third countries connect with that hub via an available system or software, for which paragraph 3 applies mutatis mutandis, or via the website referred to in the third subparagraph of this paragraph.

That central system shall also *provide a website for preparing and processing information and documents referred in paragraph 1 for shipments within the Union, for shipments within the Union with transit via third countries, export from the Union, import into the Union and transit through the Union that can* be used by the competent authorities *involved in inspections and economic operators in the Member States and in third countries that do not use systems or software* for electronic data interchange, to submit and exchange directly, by electronic means, the information and documents referred to in paragraph 1.

Software referred to in the first, second or third subparagraph of this paragraph shall be interoperable with the central system referred to in paragraph 2, be operated in accordance with the requirements and rules laid down in the implementing acts adopted by the Commission pursuant to paragraph 4 and exchange information and documents via the central system in real time.

The central system shall facilitate the keeping of documents in accordance with Article 20.

That central system shall also provide for its interoperability with the environment for electronic freight transport information established under Regulation (EU) 2020/1056 of the European Parliament and of the Council⁴⁷.

Within four years after adoption of the implementing act referred to in paragraph 4, *the Commission shall ensure the interconnection of that central system with the European Union Single Window Environment for Customs through the European Union Customs Single Window - Certificate Exchange System established by Regulation (EU) 2022/2399 of the European Parliament and the Council*⁴⁸.

⁴⁷ Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33).

⁴⁸ *Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1).*

3. Member States may operate their own *available systems or software that allow for preparing and processing information and documents referred in paragraph 1 by competent authorities, authorities involved in inspections and, where appropriate, economic operators in the Member States and for the electronic submission and exchange of information and documents referred to in paragraph 1*. The Member States shall ensure that those systems *or software* are interoperable with the central system referred to in paragraph 2, are operated in accordance with the requirements and rules laid down in the implementing acts adopted by the Commission pursuant to paragraph 4 and exchange information and documents *via the hub of* the central system in real time.

The systems referred to in the first subparagraph shall facilitate the keeping of documents in accordance with Article 20.

4. At the latest by [*OP: Please insert the date of 12 months following the date of entry into force of this Regulation*], the Commission shall adopt implementing acts to establish:
- (a) the requirements necessary for interoperability between the central system referred to in paragraph 2 and *other systems or software referred to in paragraph 3*, including a *protocol for data exchange* and a *data model for the exchange of data in the documents contained in Annexes IA, IB and VII, as well as the certificate referred to in Article 15*;
 - (b) any other technical and organisational requirements, including on security aspects, *data governance* and data *confidentiality*, which are necessary for the practical implementation of the electronic submission and exchange of information and documents referred to in paragraph 1, *taking into account the Regulation (EU) 2016/679⁴⁹*.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

⁴⁹ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1–88.*

4a. *The functionality of the central system shall be reviewed by the Commission every two years. The findings of these reviews shall be communicated to the European Parliament and the Member States.*

The review shall take into account feedback from users, such as competent authorities and notifiers.

Article 27

Language

1. Any notification, information, documentation or other communication submitted pursuant to the provisions of this Title shall be provided in a language acceptable to the competent authorities concerned.
2. The notifier, *and where applicable, the person who arranges the shipment and the consignee*, shall provide the competent authorities concerned with authorised translations of the *communications* referred to in paragraph 1 into a language which is acceptable to them, where they so request.
3. *By [date of 4 years following the date of entry into force of this Regulation], the Commission shall incorporate a function into the central system referred to in Article 26(2), which provides courtesy translations of the communications referred to in paragraph 1.*

Article 28

Disagreement on classification issues

1. (a) When deciding whether an object or substance resulting from a production process the primary aim of which is not the production of that object or substance shall be considered to be waste, Member States shall **apply** Article 5 of Directive 2008/98/EC.

(b) When deciding whether waste which has undergone a recycling or other recovery operation shall be considered to have ceased to be waste, Member States shall **apply** Article 6 of Directive 2008/98/EC.

(c) When deciding whether an object or substance shall be considered as a used good and not as waste the Member States shall ensure that at least the following conditions are fulfilled:

- (i) further use or reuse of the object or substance is certain;*
- (ii) the object or substance can fulfil its intended function without significant pre-processing;*
- (iii) where relevant, the object or substance is tested to ensure its full functionality;*
- (iv) further use is lawful, i.e. the object or substance fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts;*
- (v) the object or substance is properly protected and preserved during transport, loading and unloading.*

The provisions in the first subparagraph shall be without prejudice to Article 23(2) and Annex VI to Directive 2012/19/EU and Article 72(2) and Annex XIV to Regulation (EU) 2023/1542.

- 1a.** If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, ***taking into account the provisions in paragraph 1, and any conditions or decisions taken at Union level or by Member States according to Articles 5 or 6 of Directive 2008/98/EC***, the object or substance shall be treated as if it were waste for the purpose of the shipment. This shall be without prejudice to the right of the country of destination to deal with the shipped material in accordance with its national legislation, following arrival of the shipped material and where such legislation is in accordance with Union or international law.
- 1b.** ***The Commission may adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1, point (c), to specific substances or objects for which the distinction between used goods and waste is of particular importance for the export of waste from the Union.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

2. If the competent authorities of dispatch and of destination cannot agree on the classification of a waste *destined for recovery* as being listed in Annex III, Annex IIIA, Annex IIIB or Annex IV, or not listed in any of those Annexes, the shipment of that waste shall be subject to Article 4(2).
 3. If the competent authorities of dispatch and of destination cannot agree on the classification of the waste treatment operation as being recovery or disposal, the provisions of this Regulation regarding disposal shall apply.
 4. In order to facilitate the harmonised classification of waste listed in Annex III, Annex IIIA, Annex IIIB or Annex IV in the Union, the Commission is empowered to adopt delegated acts in accordance with Article 76 to supplement this Regulation by establishing criteria, such as contamination thresholds, on the basis of which certain wastes shall be classified in Annex III, *Annex IIIA*, *Annex IIIB* or *Annex IV*.
- 4a. *If the competent authorities of dispatch and destination cannot agree on the classification of the waste treatment operation as interim operation or non-interim operation, the provisions of this Regulation on interim operations shall apply.*

Article 29

Administrative costs

Appropriate and proportionate administrative costs for implementing the notification and supervision procedures and normal costs for appropriate analyses and inspections may be charged by *the competent* authorities concerned *or authorities involved in inspections* to the notifier *and, where relevant, the person who arranges the shipment*. *Member States shall notify the Commission of provisions applied at national level in relation to such costs. The Commission shall make the information received publicly available.*

Article 30

Border-area agreements

1. In exceptional cases, and where the specific geographical or demographical situation warrants such a step, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned.
2. The bilateral agreements referred to in paragraph 1 may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State.
3. Member States may also conclude bilateral agreements referred to in paragraph 1 with countries *members of the EFTA* (European *Free Trade Association*).

Those agreements shall provide that the waste is managed in the EFTA country in an environmentally sound manner in accordance with Article 56.

4. The agreements referred to in this Article shall be notified to the Commission before they take effect.

Article 30a

Shipments between an outermost region and its Member State

By way of derogation from Article 9(1) and (2), for shipments of waste between an outermost region referred to in Article 349 of the Treaty on the Functioning of the European Union and the Member State it is part of, requiring transit through another Member State, tacit consent by the competent authority of transit may be assumed if no objection is lodged within seven working days after the date on which the notifier has been informed in accordance with Article 8(5d) that the notification has been properly completed. That tacit consent shall be valid for the period as indicated in the written consent in accordance with Article 9(1) given by the competent authority of destination.

Article 30b

Shipments of waste from Faroe Islands into Denmark

Denmark may adopt a decision to treat imports of waste from the Faroe Islands into Denmark, which have not transited through any other country, under Article 33 of this Regulation. This decision shall be notified to the Commission.

Chapter 6

Shipments within the Union with transit via third countries

Article 31

Shipments of waste destined for disposal

1. Where a shipment of waste takes place within the Union with transit via one or more third countries, and the waste is destined for disposal, the provisions of Articles 4 to 17 and 19 to 29 shall apply mutatis mutandis, with the adaptations and additional provisions set out in paragraphs 2 and 3.

2. The following adaptations shall apply:

(-a) Article 35(2), points (a), (c), (ca) and (e) and Article 35(3), point (a), shall apply mutatis mutandis;

(a) where the third country is a Party to the Basel Convention, a competent authority of transit outside the Union shall have 60 days after the date of transmission of its acknowledgement of receipt of a properly completed notification to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions; or

- (b) where the third country is not a Party to the Basel Convention, *the competent authority of dispatch shall ask the competent authority(ies) of transit in those third countries whether they wish to send their written consent to the planned shipment* within a period agreed between the competent authorities.

Article 32

Shipments of waste destined for recovery

1. When a shipment of waste takes place within the Union with transit via one or more third countries to which the **■** OECD Decision does not apply, and the waste is destined for recovery, Article 31 shall apply.
2. When a shipment of waste takes place within the Union, including shipments between localities in the same Member State, with transit via one or more third countries to which the OECD Decision applies, and the waste is destined for recovery, the *provisions of Articles 4 to 29 shall apply mutatis mutandis, with the following adaptations and additional provisions:*
 - (a) *Article 48(2), points (d) and (da), shall apply mutatis mutandis;*
 - (b) *the consent referred to in Article 9 may be provided tacitly by the competent authority(ies) of transit outside the Union, and if no objection has been raised and any conditions laid down have been met, the shipment may start 30 days after the date on which the notifier has been informed in accordance with Article 8(5d) that the notification has been properly completed, as referred to in Article 9(1).*

Title III

Transports exclusively within a Member State

Article 33

Regime for transports of waste exclusively within a Member State

1. Member States shall establish an appropriate regime for the supervision and control of ***transports of waste*** taking place exclusively within their national jurisdiction. That regime shall take account of the need for coherence with the Union system established by Titles II and VII.
2. Member States shall inform the Commission of their regime for supervision and control of ***transports*** of waste. The Commission shall inform the other Member States thereof.

Title IV

Exports from the Union to third countries

Chapter 1

Exports of waste for disposal

Article 34

Prohibition of exports of waste destined for disposal

1. Exports from the Union of waste destined for disposal are prohibited.
2. The prohibition in paragraph 1 shall not apply to exports of waste destined for disposal to EFTA countries which are also Parties to the Basel Convention.

3. By way of derogation from paragraph 2, exports of waste destined for disposal to an EFTA country that is a Party to the Basel Convention shall be prohibited:
 - (a) where the EFTA country prohibits imports of such waste;
 - (b) where the conditions laid down in Article *II(1)* are not fulfilled;
 - (c) where the competent authority of dispatch has reason to believe that the waste will not be subject to environmentally sound management as referred to in Article 56 in the country of destination.
4. The prohibition *in* paragraph 1 shall not apply to waste that is subject to a take-back obligation pursuant to Articles 22 or 24.

Article 35

Procedures for exports of waste destined for disposal to EFTA countries

1. Where waste is exported from the Union to an EFTA country that is a Party to the Basel Convention and destined for disposal in that country, the provisions of Title II shall apply ***mutatis mutandis***, with the adaptations and additional provisions set out in paragraphs 2 and 3.
2. The following adaptations shall apply:
 - (a) the notifier shall submit in accordance with Article 26 the notification ***and any requested additional*** information and documentation **█** , and at the same time, provide ***these*** by post, ***or if appropriate, by*** fax or email with digital signature, to the competent ***authority of destination and any competent authority*** of transit **█** outside the Union, unless those authorities are connected to the central system referred to in Article 26(2); ***in case of email with digital signature, any stamp or signature required shall be replaced by the digital signature;***

█

- (ba) *the notifier shall provide, annexed to the notification document, documentary evidence that an audit as referred to in Article 43(2) has been carried out in the facility to which waste is being exported, unless the exemption in Article 43(8) applies;*
- (c) the competent authority of dispatch **and any** competent *authority of transit* in the *Union shall inform the competent authority of destination and any competent authority of transit* outside the Union of any request for information and documentation from its side and of *their decision and conditions, if any*, regarding the planned shipment, by post, **or if appropriate, by** fax or email with digital signature, unless those competent authorities are connected to the central system referred to in Article 26(2);
- (ca) *the information to be provided to the competent authority of destination and any competent authority of transit outside the Union according to Articles 7, 8, 16 and 17 shall be provided by post, or if appropriate, by fax or email with digital signature, unless those authorities are connected to the central system referred to in Article 26(2);*
- (cb) *the notifier shall ensure that the information to be provided by the facility according to Article 15(3) to (5) and Article 16(3) and (4) is included in a system referred to in Article 26, unless those facilities are connected to the central system referred to in Article 26(2);*
- (d) **a** competent authority of transit outside the Union shall have 60 days after the date of transmission of its acknowledgement of receipt of **a properly completed** notification to provide, **if** the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;

- (e) the competent authority of dispatch in the Union 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 *a* competent authority of transit outside the Union, and not earlier than 61 days after the date of transmission of the acknowledgement of receipt of *a properly completed* notification by *a* competent authority of transit *outside the Union*, unless the competent authority of dispatch has the written consent of the other competent authorities concerned, in which case it may take the decision as referred to in Article 9 before that time limit.

3. The following additional provisions shall apply:

- (a) *a* competent authority of transit in the Union shall *provide* an acknowledgment of receipt of *a properly completed* notification to the notifier and copies to the other competent authorities *concerned in case they have no access to a system referred to in Article 26*;
- (b) the competent *authority* of dispatch and, *any* competent *authority* of transit in the Union shall *inform* the customs office of export and the customs office of exit of their decisions to consent to the shipment;
- (c) a copy of the movement document shall be provided by the carrier to the customs office of export and the customs office of exit either by post, *or if appropriate, by* fax or email with digital signature, or, where the customs office of export *and the customs office of exit have* access to it, via the central system referred to in Article 26(2);
- (d) as soon as the waste has left the Union, the customs office of exit shall inform the competent authority of dispatch in the Union that the waste has left the Union;
- (e) where, 42 days after the waste has left the Union, the competent authority of dispatch in the Union has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination thereof *via a system referred to in Article 26*;

- (f) the contract referred to in Article 6 shall contain the following terms and conditions:
 - (i) where 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) the facility shall, within three days of receipt of the waste for disposal, send signed copies of the completed movement document, except for the certificate of disposal referred to in point (iii), to the notifier and the competent authorities concerned;
 - (iii) the facility shall, as soon as possible but no later than 30 days after completion of the disposal and in any case no later than one calendar year after the receipt of the waste under its responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing that certification to the notifier and to the competent authorities concerned;
- (g) the notifier shall, within three working days of receipt of the copies referred to in point (f)(ii) and (f)(iii), make the information contained in those copies electronically available in accordance with Article 26.

4. The shipment may take place only if all the following conditions are fulfilled:

- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit outside the Union and if the conditions laid down *in those consents or their annexes* have been met;
- (b) environmentally sound management of the waste as referred to in Article 56, 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.

6. Where a customs office of export or a customs office of exit discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office thereof. That competent authority shall:
- (a) without delay inform the competent authority of dispatch in the Union of the illegal shipment; ■
 - (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; *and*
 - (c) *without delay communicate the decision of the competent authority of dispatch referred to in point (b) to the customs office of export or the customs office of exit that discovered the illegal shipment.*

Chapter 2

Exports of waste for recovery

SECTION 1

EXPORTS OF HAZARDOUS AND CERTAIN OTHER WASTE TO COUNTRIES TO WHICH THE OECD DECISION DOES NOT APPLY

Article 36

Prohibition of exports of hazardous and certain other wastes

1. Exports from the Union 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 Part 1 of Annex V to this Regulation;

(b) wastes listed as hazardous in the list of waste referred to in Article 7 of Directive 2008/98/EC;

■

(c) *wastes referred to in Article 4(2a) and* wastes listed in Part 2 of Annex V to this Regulation;

(ca) plastic waste classified under B3011;

(cb) wastes listed in Annex III or Annex IIIB and mixtures of wastes listed in Annex IIIA that are contaminated by other materials to an extent which increases the risks associated with the waste sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous properties in Annex III of Directive 2008/98/EC, or prevents the recovery of the waste in an environmentally sound manner;

(cc) wastes or mixtures of wastes containing or contaminated with persistent organic pollutants (POPs) in quantities meeting or exceeding a concentration limit indicated in Annex IV to Regulation (EU) 2019/1021;

(d) hazardous wastes not classified under one single entry in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC;

(e) mixtures of hazardous wastes and mixtures of hazardous wastes with non-hazardous wastes not classified under one single entry in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC;

(f) wastes that the country of destination has notified as hazardous under Article 3 of the Basel Convention;

(g) wastes the import of which has been prohibited by the country of destination;

(h) 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 56, in the country of destination concerned;

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2. Paragraph 1 shall not apply to waste that is subject to a take-back obligation pursuant to Articles 22 or 24.
 3. Member States may, in exceptional cases, provide, on the basis of documentary evidence provided by the notifier, that a specific hazardous waste listed in Annex V to this Regulation or in the list of waste referred to in Article 7 of Directive 2008/98/EC is excluded from the export prohibition referred to in paragraph 1, where it does not display any of the properties listed in Annex III to Directive 2008/98/EC, taking into account the criteria and applicable cut-off values and concentration limits for the classification of waste as hazardous as specified *in* that Annex. Where a hazardous property of a waste has been assessed by a test and by using the concentrations of hazardous substances as indicated in Annex III to Directive 2008/98/EC, the results of the test shall prevail.
 4. The fact that waste is not listed as hazardous in Annex V or in the list of waste as referred to in Article 7 of Directive 2008/98/EC, or that it is listed in Part 1, List B of Annex V, 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 listed in Annex III to Directive 2008/98/EC, taking into account the criteria and applicable cut-off values and concentration limits for the classification of waste as hazardous, specified therein. Where a hazardous property of a waste has been assessed by a test and by using the concentrations of hazardous substances as indicated in Annex III to Directive 2008/98/EC, the results of the test shall prevail.
 5. In the cases referred to in paragraphs 3 and 4, the *competent authority* concerned shall inform the envisaged *competent authority* of destination prior to taking a decision to consent to planned shipments to that country. Member States shall notify such cases to the Commission before the end of each calendar year. The Commission shall forward that information to all Member States, *to the Secretariat of the Basel Convention in case the information refers to an entry listed in the Basel Convention* and to the *OECD Secretariat in case the information refers to an entry listed in the OECD Decision*. On the basis of the information provided, the Commission may make comments and *is empowered to adopt delegated acts* in accordance with Article 76 to amend Annex V.

SECTION 2
EXPORTS OF NON-HAZARDOUS WASTE TO COUNTRIES TO WHICH THE OECD
DECISION DOES NOT APPLY

Article 37

Prohibition of exports of non-hazardous waste

1. Exports from the Union of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:
 - (a) ***non-hazardous wastes*** listed in Annex III ***or*** Annex ***IIIB and mixtures of non-hazardous wastes listed in Annex IIIA***;
 - (b) non-hazardous ***wastes and mixtures of non-hazardous wastes*** included in the list of waste referred to in Article 7 of Directive 2008/98/EC, when not already listed in Annex III, Annex IIIA or Annex IIIB;
 - (c) ***non-hazardous wastes and mixtures of non-hazardous wastes not classified under one single entry in Annex III, Annex IIIA or Annex IIIB or in the list of waste referred to in Article 7 of Directive 2008/98/EC***;
 - (d) ***non-hazardous waste classified under AB130, AC250, AC260 and AC270***.
2. Paragraph 1 shall not apply to exports of ***wastes or mixtures of*** waste destined for recovery to a country included in the list of countries established in accordance with Article 38, for the ***non-hazardous wastes and mixtures of non-hazardous wastes*** specified in that list.

Such export may only take place on the condition that the waste is:

- (a) ***destined to a facility licensed under the domestic legislation of the country concerned, to undertake recovery operations for that waste***;
- (b) ***not destined for interim operations, unless all subsequent non-interim or interim recovery operations will take place in the same country of destination or in other countries for which the related waste is included in the list referred to in Article 38***.

3. *Exports allowed in accordance with paragraph 2 shall:*
- (a) *for waste listed in Annex IX to the Basel Convention other than B3011, be subject to the general information requirements laid down in Article 18 or, in case the country concerned so indicates in the request referred to in Article 39, the procedure of prior written notification and consent;*
 - (aa) *for waste classified under B3011, be subject to the procedure of prior written notification and consent;*
 - (b) *for non-hazardous wastes and mixtures of non-hazardous wastes not listed in Annex IX to the Basel Convention, be subject to the procedure of prior written notification and consent.*

4. *In the case of exports in accordance with paragraph 2, the provisions of Title II shall apply mutatis mutandis.*

Where such exports are subject to the general information requirements laid down in Article 18, the person who arranges the shipment shall ensure that the information to be provided by the facility according to Article 18(4) and (5) is submitted via a system referred to in Article 26, unless the facility is connected to a system referred to in Article 26.

Where such exports are subject to the procedure of prior written notification and consent, the procedures referred to in Article 35 shall apply with the following adaptations:

- (a) *Article 4(4) and Article 14 do not apply;*
- (b) *when the removal of a country or the removal of certain wastes or mixtures of wastes from the list referred to in Article 38 have entered into force, the competent authority of dispatch shall withdraw their written consent for any notification related to such country or to such wastes or mixtures of wastes.*

Establishment of a list of countries to which exports of non-hazardous waste from the Union for recovery are authorised

1. The Commission is empowered to adopt a delegated act in accordance with Article 76 to supplement this Regulation by establishing a list of countries to which the OECD Decision does not apply and to which exports of non-hazardous **wastes and mixtures of non-hazardous wastes** from the Union for recovery are authorised ("list of countries to which exports are authorised"). This list shall include countries which have submitted a request pursuant to Article 39(1) and have demonstrated compliance with the requirements set out in Article 39(3), based on an assessment carried out by the Commission pursuant to Article 40, **and have agreed to comply with Article 39(4)**.
2. The list referred to in paragraph 1 shall include the following information:
 - (a) the name of the countries to which export of non-hazardous **wastes and mixtures of non-hazardous wastes** from the Union for recovery is authorised;
 - (b) the specific **non hazardous waste(s) and mixtures of non-hazardous wastes** that are authorised for export from the Union to each country referred to in point (a);
 - (c) information, such as an internet address, allowing access to a list of facilities which are licensed under the domestic legislation of each country referred to in point (a) to carry out the recovery of the waste **and mixtures of waste** referred to in point (b);
 - (d) ■ information on ■ specific control procedure, **if any**, applying under the domestic legislation of each country referred to in point (a) to the import of the waste(s) referred to in point (b), including an indication of whether **the import of waste listed in Annex IX of the Basel Convention** is subject to the procedure of prior written notification and consent referred to in Article 35.
3. The list referred to in paragraph 1 shall be adopted by [*OP Please insert the date 30 months after the date of entry into force of this Regulation*], unless no country submits a request pursuant to Article 39(1) or no country complies with the requirements set out in Article 39(3) at that time.

By *[OP Please insert the date three months after the date of entry into force of this Regulation]*, the Commission shall contact all countries to which the OECD Decision does not apply, to provide them with the necessary information on the possibility for those countries to be included in the list of countries to which exports are authorised.

In order to be included in the list of countries to which exports are authorised adopted by *[OP Please insert the date 30 months after the date of entry into force of this Regulation]*, the countries to which the OECD Decision does not apply shall submit their request pursuant to Article 39(1) by *[OP Please insert the date 9 months after the date of entry into force of this Regulation]*.

4. The Commission shall regularly, and at least every two years following its establishment, update the list of countries to which exports are authorised, in order to:
 - (a) add a country *that complies with the requirements set out in Article 39*;
 - (b) remove a country which ceases to comply with the requirements set out in Article 39;
 - (c) update the information referred to in paragraph 2 ■ based on a request received from the country concerned and, if that request concerns the addition of new *wastes or mixtures of wastes*, provided that the country concerned has demonstrated compliance with the requirements set out in Article 39 with respect to the new *wastes or mixtures of waste* in question;
 - (d) include or remove any other element relevant to ensure that the list contains accurate and updated information.

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After receiving information and evidence referred to in *Article 39(4)*, the Commission may request additional information from the country concerned to demonstrate that it continues to comply with the requirements set out in Article *39(3)*.

6. Where information becomes available which shows in a plausible manner that the requirements set out in Article 39 are no longer fulfilled for a country which is already included in the list referred to in paragraph 1, the Commission shall invite that country to provide its views on that information, within a maximum period of two months from its invitation to provide comments, together with relevant supporting evidence demonstrating continued compliance with those requirements. That period may be extended by an additional period of two months where the country concerned makes a reasoned request for such extension.
7. Where the country concerned does not provide its views and the requested supporting evidence within the time limit referred to in paragraph 6 or where the provided evidence is insufficient to demonstrate continued compliance with the requirements set out in Article 39, the Commission shall remove that country from the list without undue delay.
8. The Commission may at any time contact a country included in the list referred to in paragraph 1 to obtain information which is relevant to ensure that this country continues to comply with the requirements set out in Article 39.

Article 39

Requirements for inclusion in the list of countries to which exports are authorised

1. Countries to which the OECD Decision does not apply and which intend to receive certain *wastes or mixtures of wastes* referred to in Article 37(1) from the Union for recovery shall submit a request to the Commission indicating their willingness to receive *these specific wastes or mixtures of wastes* and to be included in the list referred to in Article 38. Such request and all related documentation or other communication shall be provided in English language.
2. The request referred to in paragraph 1 shall be submitted using the form set out in Annex VIII and shall contain all the information specified therein.
3. The country making the request shall demonstrate that it has put in place and implements all necessary measures to ensure that the waste concerned will be managed in an environmentally sound manner as referred to in Article 56.

To this end, the country making the request shall demonstrate that:

- (a) it has a comprehensive waste management strategy or plan that covers its entire territory and shows its ability and readiness to ensure the environmentally sound management of waste. That strategy or plan shall include at least the following elements:
 - (i) **the annual** amount of total waste generated in the country ■ , as well as the **annual** amount of waste(s) covered by the scope of this request (“waste concerned by the request”) **generated in the country, and** how these amounts **are estimated to** develop in the next 10 years;
 - (ii) an estimation of the country’s current treatment capacity for waste in general, as well as an estimation of the country’s treatment capacity for the waste(s) concerned by the request, and ■ how these capacities **are estimated to** develop in the next 10 years;
 - (iii) the proportion of domestic waste that is separately collected, as well as any objectives and measures to increase this rate in the future;
 - (iv) an indication of the proportion of the domestic waste concerned by the request which is landfilled, as well as any objectives and measures to decrease that proportion in the future;
 - (v) an indication of the proportion of the domestic waste which is recycled, and possible objectives and measures to increase that proportion in the future;
 - (vi) information on the amount of waste which is littered and on measures taken to prevent and clean up litter;
 - (vii) a strategy on how to ensure the environmentally sound management of waste imported into its territory, including the possible impact of such import on the management of waste generated domestically;
 - (viii) information on the methodology used to calculate the data referred to in points (i) to (vi);

- (b) it has a legal framework for waste management in place, which includes at least the following elements:
- (i) permitting, *licensing or registration system(s)* for waste treatment facilities;
 - (ii) permitting, *licensing or registration system(s)* for transport of waste;
 - (iii) provisions designed to ensure that the residual waste generated through the recovery operation for the wastes concerned by the request is managed in an environmentally sound manner as referred to in Article 56;
 - (iv) adequate pollution controls applying to waste management operations, including emission limits for the protection of air, soil and water and measures to reduce the emissions of greenhouse gases from those operations;
 - (v) provisions on enforcement, inspection and penalties designed to ensure the implementation of domestic and international requirements on waste management and waste shipment;
- (c) it is a Party to the multilateral environmental agreements referred to in Annex VIII, and has taken the necessary measures to implement its obligations under those agreements;
- (d) it has put in place a strategy for enforcement of domestic legislation on waste management and waste shipment, covering control and monitoring measures, including information on the number of inspections of shipments of waste and of waste management facilities carried out and on penalties imposed in cases of infringements of the relevant domestic rules.

3a. *No earlier than [OP: Please insert the date 60 months after the date of entry into force of the Regulation], countries to which the OECD Decision does not apply and which intend to receive plastic waste referred to in Article 36(1)(ca) from the Union for recycling may submit a request to the Commission indicating their willingness to receive such waste and to be included in the list referred to in Article 38. Such request and all related documentation or other communication shall be provided in English language.*

In addition to the requirements set out in paragraphs 2 and 3 of this Article, the country making the request shall also demonstrate all of the following:

- (a) it has a comprehensive waste management system in place that covers its entire territory and effectively ensures separate collection of plastic waste in municipal solid waste;*
 - (b) it has a legal framework for waste management in place, which includes at least the following elements:*
 - (i) prohibition of open burning and of uncontrolled landfilling of waste;*
 - (ii) prohibition of incineration and of landfilling of separately collected plastic waste;*
 - (iii) provisions on enforcement, inspection and penalties designed to ensure the implementation of the provisions in points (a) and (b)(i) and (ii);*
 - (c) that imports of plastic waste from the EU do not have any adverse effects on the management of plastic waste generated in the country.*
- 4. In the event of any change to the information provided to the Commission under paragraph 3, the countries included in the list referred to in Article 38 shall provide an update of the information specified in the form set out in Annex VIII, together with relevant supporting evidence without delay. The countries included in the list referred to in Article 38 shall in any case, on the fifth year after their initial inclusion, provide to the Commission an update of the information specified in the form set out in Annex VIII, together with relevant supporting evidence.*

Article 40

Assessment of the request for inclusion in the list of countries to which exports are authorised

1. The Commission shall assess the requests submitted pursuant to Article 39 without undue delay and, if it is satisfied that the requirements set out in that Article are complied with, it shall include the country making the request in the list of countries to which exports are authorised. The assessment shall be based on the information and supporting evidence provided by the country making the request, as well as other relevant information, and determine if the country making the request ***complies with the requirements set out in Article 39, including that it*** has put in place and implements all necessary measures to ensure that the ***wastes and mixtures of wastes*** concerned will be managed in an environmentally sound manner as referred to in Article 56, ***and that there are no substantial adverse effect on the management of domestic waste in the country concerned as a consequence of the waste exported from the Union***. In order to perform this assessment, the Commission shall use, as points of reference, the relevant provisions in the legislation and guidance referred to in Annex IX.
2. Where, during the course of its assessment, the Commission considers that the information provided by the country making the request is incomplete or insufficient to demonstrate compliance with the requirements set out in Article 39, it shall give that country an opportunity to provide additional information within a maximum period of three months. That period may be extended by an additional period of three months where the requesting country makes a reasoned request for such extension.
3. Where the country making the request does not provide the additional information within the time limit referred to in paragraph 2 of this Article, or where the provided additional information is still considered to be incomplete or insufficient to demonstrate compliance with the requirements set out in Article 39, the Commission shall inform without undue delay the country making the request that it cannot be included in the list of countries to which exports are authorised and that its request will no longer be processed. In that case, the Commission shall also inform the country making the request of the reasons for that conclusion. This is without prejudice to the possibility of the country making the request to submit a new request pursuant to Article 39.

- 3a. *The Commission shall assess the requests submitted pursuant to Article 39(3a) without undue delay and, if it is satisfied that the requirements set out in Article 39(3) and (3a) are complied with, it is empowered to adopt a delegated act in accordance with Article 76 to include the country making the request in the list of countries to which exports are authorised. In order to perform this assessment, the Commission shall use, as points of reference, the relevant provisions in the legislation and guidance referred to in Annex IX.*

SECTION 3

EXPORTS TO COUNTRIES TO WHICH THE OECD DECISION APPLIES

Article 41

General regime for exports of waste

1. Where **■** wastes *referred to in Article 4(2), (2a) and (3)* are exported from the Union 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 additional provisions listed in paragraphs 2, 3, 3a and 5.
2. The following adaptations shall apply:
 - (-a) the notifier shall provide, annexed to the notification document, documentary evidence that an audit as referred to in Article 43(2) has been carried out in the facility to which waste is being exported, unless the exemption in Article 43(8) applies;*
 - (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 operation or disposal operation is to take place in a country to which the OECD Decision does not apply;
 - (aa) waste classified under B3011 shall be subject to the procedure of prior written notification and consent;*

- (b) waste listed in Annex IIIB *and shipments of waste destined for experimental treatment trials referred to in Article 4(4)* shall be subject to the procedure of prior written notification and consent;
- (ba) shipments of waste destined for laboratory analysis referred to in Article 4(4) shall be subject to the procedure of prior written notification and consent, unless the amount of such waste has been determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and does not exceed 25 kg, in which case the procedural requirements of Article 18 shall apply;**
- (c) the export of waste referred to in Article 4(2a) shall be prohibited;
- (d) 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 Union.
- (e) the consent to a shipment of certain waste in accordance with Article 9 shall be withdrawn by the competent authority of dispatch when a delegated act in accordance with Article 42(4) entered into force that prohibits the export of such waste to the country concerned;**
- (f) the facility mentioned in Articles 15(3) and 16(3) shall provide the respective confirmation within 3 working days of receipt of the waste.**

3. As regards exports of waste *referred to in Article 4(2)* , the adaptations and additional provisions listed in Article 35(2), *points (a), (ba), (c), (ca) and (cb)* and Article 35(3), *points (b) to (g)*, shall apply.

3a. As regards exports of waste listed referred to in Article 4(3), the person who arranges the shipment shall ensure that the information to be provided by the facility according to Article 18(4) and (5) shall be included in a system referred to in Article 26, unless those facilities are connected to a system referred to in Article 26.

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4. The shipment of waste subject to the prior written notification and consent may take place only if all the following conditions are fulfilled:
 - (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or, the competent authorities of destination and transit outside the Union have provided tacit consent or such tacit consent can be assumed and the conditions laid down in *those consents or their annexes* have been met;
 - (b) Article 35(4), *point (b)* is complied with.

5. Where an export as referred to in paragraph 1 of waste *referred to in Art. 4(2)* 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 of the country to which the OECD Decision does not apply shall have 60 days after the date of transmission of its acknowledgement of receipt of *a properly completed* notification, to provide, where the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;
 - (b) the competent authority of dispatch in the Union shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from the competent authority of transit of the country to which the OECD Decision does not apply, and not earlier than 61 days after the date of transmission of the acknowledgement of receipt of *a properly completed notification by a* competent authority of transit *outside the Union*, unless the competent authority of dispatch has received the written consent of the other competent authorities concerned, in which case it may take the decision as referred to in Article 9 before that time limit.

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. *The provisions in Article 35(6) shall apply.*

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Article 42

Monitoring of export and safeguard procedure

1. The Commission shall monitor the ■ export of waste from the Union to countries to which the OECD Decision applies, with a view to ensuring that such exports do not lead to *significant* environmental or human health damages in the country of destination *or that waste imported from the Union are not shipped further to third countries*. As part of *its* monitoring, the Commission shall assess requests from natural or legal persons which are accompanied by relevant information and data showing that *management* of waste *exported* from the Union *does not fulfil the requirements of environmentally sound management as referred to in Article 56 in a third* country to which the OECD Decision applies, *or that such exports cause substantial adverse effects on the management of waste generated in that country*.
2. *In cases where:*
 - (a) *there is insufficient evidence available demonstrating that* a country to which the OECD Decision applies has ■ the ability to recover *certain* waste in an environmentally sound manner as referred to in Article 56, *including due to the export of such waste from the Union to* the country concerned, *or*
 - (b) *where there is evidence that the country concerned fails to meet the requirements of Article 56 for this waste, or*
 - (c) *there is evidence that there are substantial adverse effects on the management of waste generated in that country due to the export of waste from the Union,*

the Commission shall request the competent authorities of the country concerned to provide, within 60 days, information on the conditions under which the waste in question is recovered, the effect of the export of the waste from the Union on the management of the waste generated in that country and the ability of the country concerned to manage this waste in an environmentally sound manner as referred to in Article 56. The Commission may grant an extension of this time limit if the country concerned makes a reasoned request for an extension thereof.

3. The request referred to in paragraph 2 shall aim to verify that the country concerned has:
- (a) put in place and implemented an adequate legal framework for the import and management of █ waste concerned, ***both imported waste and waste generated in the country, in an environmentally sound manner***, as well as adequate measures to ensure the environmentally sound management of the residual waste generated through the recovery of the waste concerned;
 - (aa) ***put in place separate reporting on the amount of waste generated in the country concerned and of waste imported into that country;***
 - (b) sufficient capacity in its territory allowing the waste concerned to be managed in an environmentally sound manner, taking into consideration the █ volume of waste imported into its territory;
 - (c) put in place an adequate strategy, ***including measures to ensure that*** the import of the waste concerned ***has no substantial adverse effect*** on the collection and management of the waste generated domestically;
 - (d) put in place and implemented adequate enforcement measures to ***ensure that the waste concerned is managed in an environmentally sound manner and*** address possible illegal shipments or treatment of ***such*** waste █ .

(e) in the case of export of plastic waste, has been implementing requirements designed to ensure that plastic waste will be recycled in an environmentally sound manner and that residual waste generated through the recycling process will be managed in an environmentally sound manner, including through a prohibition of open burning or dumping of such waste. The request shall in addition aim to verify that measures are implemented to avoid that the import of plastic waste from the Union undermines the environmentally sound management of plastic waste generated domestically and that measures have been taken to prevent the shipment of imported plastic waste to other countries. Information shall also be provided showing that specific enforcement and inspections of shipments of plastic waste and facilities managing such waste are carried out at regular intervals to implement these requirements and mitigate avoid pollution to air, soil, water or the marine environment linked to the mismanagement of plastic waste.

3a. For the purpose of the verifications referred to in paragraph 3, the Commission shall, where relevant, consult relevant stakeholders.

3b. The Commission shall exercise specific scrutiny with regard to exports of plastic waste to countries to which the OECD Decision applies. The Commission shall by [OP: Please insert the date of twenty-four months following the date of entry into force of this Regulation] assess whether countries to which the OECD Decision applies and which import important volumes of plastic waste from the Union comply with the provisions of this Article.

4. Where, further to the request referred to in paragraph 2, the country concerned does not provide sufficient evidence as referred to in paragraph 3 that the waste **concerned** is managed in an environmentally sound manner in accordance with Article 56, **or that there are no substantial adverse effects on the management of waste generated in that country as a consequence of the waste exported from the Union**, the Commission is empowered to adopt delegated acts in accordance with Article 76 to supplement this Regulation by prohibiting the export of the waste concerned to this country.

A prohibition shall be lifted by the Commission, when the Commission has sufficient evidence that the waste concerned will be managed in an environmentally sound manner *and that there are no substantial adverse effects on the management of waste generated in that country as a consequence of the waste exported from the Union.*

Chapter 3

Additional obligations

Article 43

Obligations on exporters

1. A *notifier or person who arranges a shipment* shall only export waste from the Union if it can demonstrate that the facilities which are to receive the waste in the country of destination will manage it in an environmentally sound manner as referred to in Article 56.

1a. A notifier or person who arranges a shipment shall not export waste to a facility which does not comply with criteria laid down in Part B of Annex X.

2. In order to fulfil the obligation referred to in paragraph 1, a *notifier or person who arranges a shipment* intending to export waste from the Union shall ensure that the facilities which will manage the waste in the country of destination have been subject to an audit **■** .

This audit shall be carried out by a third party which shall be independent from the notifier or person who arranges the shipment as well as from the audited facility and have appropriate qualifications in the areas of audits and waste treatment.

When commissioning an audit, a notifier or a person who arranges the shipment shall verify that the third party complies with the requirements laid down in Part A of Annex X and has been authorised or accredited by a national official body to perform audits as defined in this Article.

3. The audit referred to in paragraph 2 shall *include both physical and documentary checks and shall* verify compliance of the facility concerned with the criteria laid down in *Part B of Annex X.*

4. ***A notifier or person who arranges a shipment*** intending to export waste shall ensure, ***prior to exporting waste***, that the facility which will manage the waste in the country of destination has been subject to an audit referred to in paragraph 2 ***which was carried out no longer than two years*** prior to exporting waste to the facility concerned and ***which has demonstrated compliance of the facility with the criteria in Part B of Annex X***.

With a view to fulfilling this obligation, a notifier or a person who arranges the shipment shall either:

- (a) commission an audit in accordance with this Article,***
- (b) acquire the report of an audit commissioned in accordance with this Article by another notifier or person who arranges the shipment, which was made available in accordance with paragraph 5, after verifying that the audit had been conducted in accordance with paragraphs 2 and 3 and demonstrated compliance of the facility with the criteria laid down in Part B of Annex X, or***
- (c) acquire the report of an audit commissioned in accordance with this Article by the facility itself, which was notified to the register referred to in paragraph 5b in accordance with paragraph 5a second sub-paragraph, after verifying that the audit had been conducted in accordance with paragraphs 2 and 3 and demonstrated compliance of the facility with the criteria laid down in Part B of Annex X.***

A notifier or person who arranges a shipment shall also ***commission*** an ad-hoc audit without delay in case it receives ***reliable*** information that a facility no longer complies with the criteria laid down in ***Part B of Annex X***. ***In case an ad-hoc audit demonstrates that a facility no longer complies with the criteria laid down in Part B of Annex X, the notifier or the person who arranges the shipment shall immediately stop the export of waste to that facility and inform the competent authorities of dispatch concerned.***

5. ***A notifier or person who arranges the shipment that has commissioned*** an audit for a given facility in accordance with paragraph 2 shall ensure that such audit be made available to other ***notifiers or persons who arrange a shipment*** intending to export waste to the facility in question, under fair commercial conditions.

5a. *A notifier or a person who arranges a shipment shall notify the Commission of audits they have commissioned in accordance with paragraphs 2 and 4, and which have demonstrated compliance of a facility with the criteria laid down in Part B of Annex X. The notification shall contain the following information:*

- (a) name and contact details of the facility that has been subject to an audit;*
- (b) name and contact details of the notifier or the person who arranges the shipment that has commissioned the audit;*
- (c) name and contact details of the third party that has carried out the audit;*
- (d) the date of the audit;*
- (e) the types of wastes, as listed in Annexes III, IIIA, IIIB or IV or in the list of waste referred to in Article 7 of Directive 2008/98/EC;*
- (f) the recovery operations (R-codes), as referred to in Annex II of Directive 2008/98/EC.*

A notifier or a person who arranges a shipment may notify the Commission of an audit commissioned by the audited facility itself, provided that the notifier or the person who arranges a shipment has verified that the audit had been conducted in accordance with paragraphs 2 and 3 and demonstrated compliance of the facility with the criteria laid down in Part B of Annex X.

5b. *The Commission shall establish and keep up to date a register with information received in accordance with paragraph 5a. The Commission shall make the information in the register publicly available.*

6. Upon request by a competent authority or an authority involved in inspections, a **notifier or person who arranges a shipment** shall provide documentary evidence that audits as referred to in paragraph 2 have been carried out in all facilities to which they are exporting the waste in question. Such documentary evidence shall be provided in a language acceptable to the authorities concerned.

7. *A notifier or person who arranges a shipment* exporting waste outside the Union shall on a yearly basis make information on how they comply with their obligations under this Article publicly available by electronic means.
8. Where an international agreement between the Union and a third country to which the OECD Decision applies recognises that the facilities in that third country will manage waste in an environmentally sound manner, *as referred to in Article 56 and* in accordance with the criteria laid down in *Part B of Annex X, notifiers or persons who arrange shipments* which intend to export waste to that third country shall be exempted from the obligation in *paragraphs 2 to 5a and 6.*
- A notifier or a person who arranges a shipment exporting waste from the Union to a facility in a third country with which the Union has concluded an international agreement shall carry out ad-hoc audit without delay in the event it receives reliable information that a facility no longer complies with the criteria laid down in Part B of Annex X. The notifier or person who arranges a shipment shall in such a case notify the competent authorities of dispatch of that reliable information as well as its plans to carry out an ad-hoc audit.*
- In case an ad-hoc audit demonstrates that a facility no longer complies with the criteria laid down in Part B of Annex X, the notifier or the person who arranges the shipment shall immediately stop the export of waste to that facility and inform the competent authorities of dispatch concerned.*
9. *The Commission* shall *make* the relevant international *agreements referred to in* paragraph 8 *publicly available on its website.*
- 9a. *The Commission may adopt guidelines with regard to the application of this Article.*

Article 44

Obligations on Member States of export

1. ***In case of exports from the Union***, Member States shall take all the measures necessary to ensure that legal and natural persons under their national jurisdiction do ***not*** export waste in cases where the conditions laid down in Articles 36 to 43 for such export are not met ***or where exported waste is not managed in an environmentally sound manner in accordance with Article 56.***

2. **■**

Where Member States are in possession of ***reliable*** information, which indicates that natural or legal persons exporting waste from the Union are not complying with their obligations under Article 43 they shall carry out the necessary verifications.

Chapter 4

General provisions

Article 45

Exports to the Antarctic

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

Article 46

Exports to overseas countries or territories

1. Exports from the Union to an overseas country or territory of waste destined for disposal in that country or territory 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 Article 36, the provisions of Title II shall apply *mutatis mutandis*.

Title V

Imports into the Union from third countries

Chapter 1

Imports of waste for disposal

Article 47

Prohibition of imports of waste destined for disposal

1. Imports into the Union of waste destined for disposal shall be prohibited except imports coming from:
 - (a) countries which are Parties to the Basel Convention;
 - (b) other countries with which the Union, or the Union and its Member States, have concluded bilateral or multilateral agreements or arrangements compatible with Union legislation and in accordance with Article 11 of the Basel Convention;
 - (c) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or
 - (d) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (b) or (c) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.
2. In exceptional cases, Member States may conclude bilateral agreements and arrangements for the disposal of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner in the country of dispatch.

These agreements and arrangements shall:

- (a) be compatible with Union legislation and in accordance with Article 11 of the Basel Convention.
 - (b) guarantee that the disposal operations will be carried out in an authorised facility and will comply with the requirements for environmentally sound management as referred to in **Article 56(1) of this Regulation, Article 13 of Directive 2008/98/EC and other Union legislation on waste, in particular the Union legislation referred to in Annex IX, part 1;**
 - (c) guarantee that the waste is produced in the country of dispatch and that disposal will be carried out exclusively in the Member State which has concluded the agreement or arrangement; **and**
 - (d) be notified to the Commission prior to their conclusion or, in emergency situations, at the latest up to one month after conclusion.
3. Bilateral or multilateral agreements or arrangements referred to in paragraph 1, points (b) and (c), shall be based on the procedural requirements of Article 48.
 4. The countries referred to in paragraph 1, points (a), (b) and (c), shall be required to present a prior duly motivated request to the competent authority of the Member State of destination on the basis that they do not have and cannot reasonably acquire the technical capacity and the necessary facilities in order to dispose of the waste in an environmentally sound manner as referred to in Article 56.

Article 48

Procedural requirements for imports of waste destined for disposal

1. Where waste destined for disposal is imported into the Union from countries that are Parties to the Basel Convention, **or in cases referred to in Article 47(1), point (d)**, the provisions of Title II shall apply ***mutatis mutandis***, with the adaptations and additional provisions set out in paragraphs 2 and 3.

2. The following adaptations shall apply:

(a) ***a notifier that*** is not established within the Union and has no access to a system referred to in Article 26, ***may submit*** the notification ***and any requested additional*** information and documentation to the competent authorities concerned by post, ***or if appropriate, by*** fax or email with ***digital signature in case of email with digital signature, any stamp or signature required shall be replaced by the*** digital signature;

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(c) the notifier, or where the notifier is not established within the Union and has no access to a system referred to in Article 26, the competent authority of destination in the Union, shall ensure that all relevant information, ***at least the notification document including any annexes, the movement document including any annexes, the written consents, information about tacit consents and the conditions,*** is included in that system;

(d) the competent ***authority of destination and any competent authority of transit*** in the Union shall inform the competent ***authority of dispatch and any competent authority*** of transit outside the Union of any request for information and documentation from their side and of their decision on the planned shipment, by post, ***or if appropriate, by*** fax or email with digital signature ■ unless the competent authorities in the countries concerned have access to the central system referred to in Article 26(2);

(da) ***the information to be provided to the competent authority of dispatch and any competent authority of transit outside the Union according to Articles 7, 8, 16 and 17 shall be provided by post, or if appropriate, by fax or email with digital signature, unless those authorities are connected to a system referred to in Article 26;***

- (e) *a* competent authority of transit outside the Union shall have 60 days after the date of transmission of its acknowledgement of receipt of *a properly completed* notification, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties to the Basel Convention thereof in accordance with Article 6(4) of that Convention, tacit consent or to give a written consent with or without conditions;
- (f) in the cases referred to in Article 47(1), point (d) involving situations of crisis, peacemaking, peacekeeping or war, the consent of the competent authorities of dispatch shall not be required.

3. The following additional provisions shall apply:

- (-a) the competent authority of destination may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount of cover of any financial guarantee or equivalent insurance established by the notifier;*
- (a) *a* competent authority of transit in the Union shall provide an acknowledgement of receipt of *a properly completed* notification to the notifier, with copies to the competent authorities concerned *in case they have no access to a system referred to in Article 26*;
- (b) the competent *authority* of destination and *any competent authority of* transit in the Union shall *inform* the customs office of entry ■ of their decisions to consent to the shipment;
- (c) a copy of the movement document shall be delivered by the carrier to the customs office of entry either by post *or if appropriate, by* fax or email with digital signature ■ or, where the customs office of entry has access to it, via the central system referred to in Article 26(2); and
- (d) as soon as the waste has been released for a customs procedure by the customs authorities at entry, the customs office of entry shall inform the competent *authority* of destination and *any competent authority of* transit in the Union that the waste has entered the Union.

4. The shipment may take place only if all the following conditions are fulfilled:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit and the conditions laid down in *those consents or their annexes* have been met;
 - (b) a contract between the notifier and the consignee as referred to in Article 6 has been concluded and is effective;
 - (c) a financial guarantee or equivalent insurance as referred to in Article 7 has been established and is effective; and
 - (d) environmentally sound management as referred to in Article 56 is ensured.
5. Where a customs office of entry discovers an illegal shipment, it shall without delay inform the competent authority in the country of that customs office. That competent authority shall:
- (a) without delay inform the competent authority of destination in the Union of the illegal shipment, after which that competent authority shall inform the competent authority of dispatch outside the Union; █
 - (b) ensure detention of the waste until the competent authority of dispatch outside the Union 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; *and*
 - (c) *without delay communicate the decision of the competent authority of dispatch referred to in (b) to the customs office of entry that discovered the illegal shipment.*
6. Where waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations is *imported* , by those armed forces or relief organisations or *by a natural or legal person* on their behalf, *those armed forces or relief organisations shall inform* any competent authority of transit and the competent authority of destination in the Union, *or in urgent cases where the disposal or recovery facility is not known at the time of the shipment, the competent authority responsible for the area of the first place of destination* in advance concerning the shipment and its destination.

The information provided according to the first subparagraph shall accompany the shipment, unless it is provided via a system in accordance with Article 26.

- 6a. *The Commission shall adopt an implementing act detailing the information to be provided according to the first subparagraph of paragraph 6 and the related timing.*

Such information shall be sufficient to enable authorities to carry out inspections, and provide details on the persons involved in the shipments, the date of the shipment, the waste quantity, the waste identification, the designation and composition of the waste, the recovery or disposal facility, the code for the recovery or disposal operation and the countries involved.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Chapter 2

Imports of waste for recovery

Article 49

Prohibition of imports of waste destined for recovery

1. **█** Imports into the Union of waste destined for recovery shall be prohibited except for imports coming from:
 - (a) countries to which the OECD Decision applies;
 - (b) other countries which are Parties to the Basel Convention;
 - (c) other countries with which the Union, or the Union and its Member States, have concluded bilateral or multilateral agreements or arrangements compatible with Union legislation and in accordance with Article 11 of the Basel Convention;
 - (d) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or

- (e) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (c) or (d) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.
2. In exceptional cases, individual Member States may conclude bilateral agreements and arrangements for the recovery of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner, in the country of dispatch.

In such cases Article 47(2), second subparagraph, shall apply.

3. Bilateral or multilateral agreements or arrangements entered into in accordance with paragraph 1, points (c) and (d), shall be based on the procedural requirements set out in Article 48 in so far as may be relevant.

Article 50

Procedural requirements for imports from a country to which the OECD Decision applies or from other areas during situations of crisis or war

1. Where waste destined for recovery is imported into the Union from countries and through countries to which the OECD Decision applies, ***or in cases referred to in Article 49(1), point (e)***, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additional provisions set out in paragraphs 2 and 3.
2. The following adaptations shall apply:
- (a) the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of dispatch outside the Union;
 - (aa) shipments of waste destined for experimental treatment trials referred to in Article 4(4) shall be subject to the procedure of prior written notification and consent;***

(ab) shipments of waste destined for laboratory analysis referred to in Article 4(4) shall be subject to the procedure of prior written notification and consent, unless the amount of such waste has been determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and does not exceed 25 kg, in which case the procedural requirements of Article 18 shall apply;

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(ba) the provisions in Article 48(2), points (a) to (e).

(c) the facility mentioned in Articles 15(3) and 16(3) shall provide the respective confirmation within 3 working days of receipt of the waste

3. The following additional provisions shall apply: Article 48(3), points (-a), (b), (c) and (d).
4. The shipment may take place only if all the following conditions are fulfilled:
 - (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or tacit consent from the competent authority of dispatch outside the Union has been provided or can be assumed and the conditions laid down in the respective decisions have been met;
 - (b) *the conditions specified in Article 48(4), points (b), (c) and (d)*

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5. *The provisions in Article 48(5) and (6) shall apply.*

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Article 51

Procedural requirements for imports from or through a country to which the OECD Decision does not apply

Where waste destined for recovery is imported into the Union from a country to which the OECD Decision does not apply or through any country to which the OECD Decision does not apply and which is also Party to the Basel Convention, Article 48 shall apply *mutatis mutandis*.

Chapter 3
Additional obligations

Article 52

Obligations of competent authorities of destination in the Union

1. In the case of imports into the Union, the competent authority of destination in the Union shall require and take the necessary steps to ensure that any waste shipped into its area of jurisdiction is managed without endangering human health and ***in an environmentally sound manner in accordance with Article 56 of this Regulation***, and in accordance with Article 13 of Directive 2008/98/EC and other Union legislation on waste, ***in particular the Union legislation referred to in Annex IX, part 1***, throughout the period of shipment, including recovery or disposal in the country of destination.
2. The competent authority referred to in paragraph 1 shall also prohibit imports of waste from third countries where it has reason to believe that the waste will not be managed in accordance with the requirements set out in paragraph 1.

Chapter 4

Imports from overseas countries or territories

Article 53

Imports from overseas countries or territories

1. Where waste is imported into the Union from overseas countries or territories, Title II shall apply *mutatis mutandis*.
2. An overseas country or territory and the Member State to which it is linked may apply national procedures of that Member State to shipments from the overseas country or territory to that Member State in case no other countries are involved in the shipment as *country of transit*.
3. Member States which apply paragraph 2 shall notify the Commission of the national procedures applied.

Title VI

Transit through the Union from and to third countries

Article 54

Transit through the Union of waste destined for disposal

Where waste destined for disposal is shipped through Member States from and to third countries, Article 48 shall apply *mutatis mutandis*, with the following adaptations and additional provisions:

- (a) the first and last competent authority of transit in the Union shall, where appropriate, *inform* the customs office of entry and the customs office of exit of their respective decisions to consent to the shipment or, if they have provided tacit consent, of the acknowledgement in accordance with Article 48(3), point (a);

- (b) the customs office of exit shall, as soon as the waste has left the Union, inform the competent authority(ies) of transit in the Union that the waste has left the Union.
- (c) ***a competent authority of transit in the Union may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount of cover of any financial guarantee or equivalent insurance established by the notifier.***

Article 55

Transit through the Union of waste destined for recovery

1. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision does not apply, Article 54 shall apply ***mutatis mutandis***.
2. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision applies, Article 50 shall apply ***mutatis mutandis***, with the following adaptations and additional provisions:
 - (a) the first and last competent authority of transit in the Union shall, where appropriate, ***inform*** the customs office of entry and the customs office of exit of their respective decisions to consent to the shipment or, if they have provided tacit consent, of the acknowledgement in accordance with Article 48(3), point (a);
 - (b) the customs office of exit shall, as soon as the waste has left the Union, inform the competent authorities of transit in the Union that the waste has left the Union;
 - (c) ***where waste is shipped through one or more Member States from and to a third country the competent authorities of transit in the Union may, if necessary, require a financial guarantee or equivalent insurance, or an additional financial guarantee or equivalent insurance, after having reviewed the amount of cover of any financial guarantee or equivalent insurance established by the notifier.***

3. Where waste destined for recovery is shipped through Member States from a country to which the OECD Decision does not apply to a country to which the OECD Decision applies or vice versa, paragraph 1 shall apply as regards the country to which the OECD Decision does not apply and paragraph 2 shall apply as regards the country to which the OECD Decision applies.

Title VII

Environmentally sound management and enforcement

Chapter 1

Article 56

Environmentally sound management

1. The waste producer, the notifier, *the person who arranges a shipment* and any other undertaking involved in a shipment of waste or its recovery or disposal shall take the necessary steps to ensure that any waste shipped is managed without endangering human health and in an environmentally sound manner throughout the period of shipment and during the recovery and disposal of the waste.

2. For the purposes of export of waste, the waste shipped shall be deemed to be managed in an environmentally sound manner as regards the recovery or disposal operation concerned, where it can be demonstrated that the waste, *as well as any residual waste generated through the recovery or disposal operation*, will be managed in accordance with human health, *climate* and environmental protection requirements that are *considered* equivalent to the human health and environmental protection requirements laid down in Union legislation. When assessing such *considered* equivalence, full compliance with requirements stemming from Union legislation shall not be required, but it *shall* be demonstrated that the requirements applied in the country of destination ensure a similar level of protection of human health and the environment than the requirements stemming from Union legislation. *In order to perform this assessment in relation to Union legislation, the relevant provisions in the Union legislation and the international guidance referred to in Annex IX shall be used as points of reference.*

Chapter 2

Enforcement

SECTION 1

INSPECTIONS BY THE MEMBER STATES AND PENALTIES

Article 57

Inspections

1. Member States shall, for the purpose of enforcing this Regulation, *ensure that* inspections of establishments, undertakings, brokers and dealers in accordance with Article 34 of Directive 2008/98/EC, and inspections of shipments of waste and of the related recovery or disposal, *are carried out*.
2. Inspections of shipments shall take place at least in one of the following points:
 - (a) at the point of origin, carried out with the waste producer, *collector*, waste holder, *notifier or person who arranges the shipment*;

- (b) at the point of destination, including interim and non-interim recovery or disposal, carried out with the consignee or the facility;
- (c) at the borders of the Union;
- (d) during the shipment within the Union.

Article 58

Documentation and evidence

1. Inspections of shipments shall include at least verification of documents, confirmation of the identity of the actors involved in those shipments and, where appropriate, physical checking of the waste.
2. In order to ascertain that a substance or object being carried by road, rail, air, sea or inland waterway is not waste, the authorities involved in inspections may require the natural or legal person who is in possession of the substance or object concerned, or who arranges the carriage thereof, to submit documentary evidence:
 - (a) as to the origin and destination of the substance or object concerned; and
 - (b) that it is not waste, including, where appropriate, evidence of functionality.

For the purpose of the first subparagraph, the protection of the substance or object concerned against damage during transportation, loading and unloading, such as adequate packaging and appropriate stacking, shall also be ascertained.

In order to distinguish between used goods and waste, for the purpose of inspection, the criteria laid down in, and pursuant to, Article 28(1), point (c), and, where applicable, Article 28(1b) shall apply.

The provisions of this paragraph shall be without prejudice to the application of Article 23(2) and Annex VI to Directive 2012/19/EU of the European Parliament and of the Council⁵⁰.

⁵⁰ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38).

3. The authorities involved in inspections may conclude that the substance or object concerned is waste where:
 - (a) the evidence referred to in paragraph 2 or required under other Union legislation to ascertain that a substance or object is not waste, has not been submitted within the period specified by them; or
 - (b) they consider the evidence and information available to them to be insufficient to reach a conclusion, or they consider the protection provided against damage referred to in the second subparagraph of paragraph 2 to be insufficient.

Where the authorities have concluded that a substance or object is waste in accordance with the first subparagraph, the carriage of the substance or object concerned or the shipment of waste concerned shall be considered as an illegal shipment. Consequently, it shall be dealt with in accordance with Articles 24 and 25 and the authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.

4. In order to ascertain whether a shipment of waste complies with this Regulation, the authorities involved in inspections may require the notifier, the person who arranges the shipment, the waste holder, the carrier, the consignee and the facility that receives the waste to submit relevant documentary evidence to them within a period specified by them, ***and may detain the goods in a shipment and, when necessary, the means of transport containing the goods, and suspend the transport of the goods until such documentation has been provided.***
5. In order to ascertain whether a shipment of waste subject to the general information requirements set out in Article 18 is destined for recovery operations which are in accordance with Article 56, the authorities involved in inspections may require the person who arranges the shipment ***and the consignee*** to submit relevant documentary evidence provided by the interim and non-interim recovery facility and, if necessary, approved by the competent authority of destination. ***In cases of export from the Union, the authorities involved in inspections shall require documentary evidence on the audit carried out in accordance with Article 43.***

6. Where the evidence referred to in *paragraphs 4 or 5* has not been submitted to the authorities involved in inspections within the period specified by them, or they consider the evidence and information available to them to be insufficient to reach a conclusion, the shipment concerned shall be considered as an illegal shipment and shall be dealt with in accordance with Articles 24 and 25. The authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.
7. The Commission is empowered to adopt, by means of implementing acts, a correlation table between the codes of the combined nomenclature, provided for in Council Regulation (EEC) No 2658/87⁵¹ and the entries of waste listed in Annex III, Annex IIIA, Annex IIIB, Annex IV, and Annex V to this Regulation. The Commission shall keep this act updated, in order to reflect changes to that nomenclature and to the entries listed in those Annexes, as well as to include any new waste-related codes of the Harmonised System Nomenclature that the World Customs Organisation may adopt. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2). Commission Implementing Regulation (EU) 2016/1245⁵² shall remain in force until the empowerment referred to in the present Article is exercised by the Commission.

Article 59

Inspection plans

1. Member States shall ***ensure that***, in respect of their entire geographical territory, one or more plans ***are established***, either separately or as a clearly defined part of other plans, for inspections to be carried out pursuant to Article 57(1) ('inspection plan').

⁵¹ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff; OJ L 256, 7.9.1987, p. 1–675

⁵² Commission Implementing Regulation (EU) 2016/1245 of 28 July 2016 setting out a preliminary correlation table between codes of the Combined Nomenclature provided for in Council Regulation (EEC) No 2658/87 and entries of waste listed in Annexes III, IV and V to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste (OJ L 204, 29.7.2016, p. 11).

Inspection plans shall be based on a risk assessment covering specific waste streams and sources of illegal shipments, the results of previous inspections and considering, where appropriate, intelligence-based data such as data on investigations by police and customs authorities and analyses of criminal activities *as well as reliable information from natural or legal persons on possible illegal shipments, relevant information related to the management of waste being shipped and information showing that a shipment bears similarities with shipments previously identified as illegal. It shall in particular take into account the need for conducting verifications of whether natural and legal persons exporting waste from the Union comply with the obligations referred to in Article 43.*

That risk assessment shall aim, inter alia, to identify the minimum number and frequency of inspections required, including physical checks on establishments, undertakings, brokers, dealers and shipments of waste or on the related recovery or disposal.

2. Inspection plans shall include, at least, the following elements:
 - (a) the objectives and priorities of the inspections, including a description of how those objectives and priorities have been identified;
 - (b) the geographical area covered by the inspection plan;
 - (c) information on planned inspections, including on *a minimum number of inspections and physical checks to be carried out in each calendar year on establishments, undertakings, brokers, dealers and shipments of waste or on the related recovery or disposal, identified in accordance with the risk assessment referred to in paragraph 1;*
 - (d) the tasks assigned to each authority involved in inspections;
 - (e) arrangements for cooperation between authorities involved in inspections;
 - (f) information on the training of inspectors on matters relating to inspections; and
 - (g) information on the human, financial and other resources for the implementation of the inspection plan.

3. An inspection plan shall be reviewed at least every three years and, where appropriate, updated. That review shall evaluate to which extent the objectives and other elements of that inspection plan have been implemented.
4. Without prejudice to applicable confidentiality requirements, Member States shall notify the Commission of the inspection plans referred to in paragraph 1 and any substantial revisions thereof every three years, and for the first time one year after the date of entry into force of this Regulation.
5. The Commission shall review the inspection plans notified by the Member States in accordance with paragraph 4 and, if appropriate, draw up reports, based on the review of these plans, on the implementation of this Article. Such reports may include, inter alia, recommendations on priorities of inspections and on enforcement cooperation and coordination between the relevant authorities involved in inspections. Such reports may also be presented, where appropriate, in the meetings of the waste shipment enforcement group established under Article 63 ***and shall be made available to the European Parliament and the Council.***

Article 60

Penalties

1. ***Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council⁵³***, Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are applied. The penalties provided for shall be effective, proportionate and dissuasive. ■
2. ***Member States shall ensure that the penalties established pursuant to this Article*** give due regard to the following, ***as applicable***:
 - (a) the nature, gravity and ***extent*** of the infringement;
 - (b) where appropriate, the intentional or negligent character of the infringement;

⁵³ ***Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law(OJ L 328, 6.12.2008, p. 28).***

- (c) the financial *capacity* of the natural or legal █ person held responsible;
- (d) the economic benefits derived from the infringement by the natural or legal person held responsible, insofar as they can be determined;
- (e) the environmental damage caused by the infringement █ ;
- (f) any action taken by the natural or legal person held responsible to mitigate or remedy the damage caused;

█

- (h) *the repetitive or singular character of the infringement*;

█

- (j) any other aggravating or mitigating factor applicable to the circumstances of the case.

3. The Member States shall at least be able to impose the following penalties in case of infringements of this Regulation, *where relevant*:

- (a) fines;

█

- (c) *revocation or time-limited suspension* of the authorisation to carry out activities related to management and shipment of waste insofar as these activities fall under the scope of this Regulation;

- (d) *time-limited* exclusion from public procurement procedures.

4. *Member States shall without delay notify the Commission of the rules and measures referred to in paragraph 1 and of any subsequent amendments affecting them.*

SECTION 2

ENFORCEMENT COOPERATION

Article 61

Enforcement cooperation at national level

Member States shall *maintain or* establish, as regards all relevant **■** authorities involved in enforcement of this Regulation *in their territory, including competent authorities and the authorities involved in inspections*, effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of enforcement policies and activities to address illegal shipments of waste, including for the establishment and implementation of the inspection plans.

Article 62

Enforcement cooperation between Member States

1. Member States shall cooperate, bilaterally and multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments. They shall exchange relevant information *related to such prevention and detection, including* on shipments of waste, flows of waste, operators and facilities, and share experience and knowledge on enforcement measures, including the risk assessment carried out pursuant to Article 59(1), within established structures, in particular, through the waste shipment enforcement group established under Article 63.
2. Member States shall identify *the authority or authorities and the* members of their permanent staff responsible for the cooperation referred to in paragraph 1 and *also* identify *an authority or authorities and responsible members of their permanent staff as* the focal points for the physical checks referred to in Article 58(1). *The Member States* shall *send that information* to the Commission which shall *compile the information and make it available to the identified authorities and* members *of their permanent staff*.

3. At the request of *an authority in* another Member State, *an authority of* a Member State may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that Member State.

Article 63

Waste shipment enforcement group

1. An enforcement group shall be established to facilitate and improve cooperation and coordination between the Member States in order to prevent and detect illegal shipments (the ‘waste shipment enforcement group’).
2. The waste shipment enforcement group shall consist of *up to three representatives per Member State, selected from* the designated permanent staff responsible for the cooperation referred to in Article 62(2) *or from permanent staff of other relevant authorities involved in enforcement of this Regulation, to be nominated by the Member States, which will inform the Commission*. It shall be *co-chaired* by the representative(s) of the Commission *and by a representative of a Member State elected by the group*.
3. The waste shipment enforcement group shall be a forum for sharing information *relevant for the prevention and detection of illegal shipments, including information* and intelligence on general trends relating to illegal shipments of waste, risk-based assessments carried out by *the authorities of the* Member States, and *experience and knowledge on enforcement measures*, as well as for exchanging views on best practices and for facilitating cooperation and coordination between relevant authorities. The waste shipment enforcement group may examine any technical question relating to the enforcement of this Regulation raised by the chairperson, either on his or her own initiative or at the request of the members of the group or the committee referred to in Article 77.
4. The waste shipment enforcement group shall meet *regularly*, at least *once* a year. In addition to the members referred to in paragraph 2, the chairperson may invite to the meetings *or parts of the meetings*, where appropriate, representatives of other relevant institutions, bodies, offices, agencies, *networks or other stakeholders*.
5. The Commission shall convey the opinions expressed in the waste shipment enforcement group to the committee referred to in Article 77.

SECTION 3
ACTIONS PERFORMED BY THE COMMISSION

Article 64

General provisions

1. ***Without prejudice to Council Regulation 515/97⁵⁴, the Commission shall exercise the powers conferred onto it by Articles 64 to 68 in order to support and complement the enforcement activities of the Member States and to contribute to a uniform implementation of this Regulation throughout the Union.***
█ █
█
█
3. The Commission may exercise the powers conferred onto it by this Regulation ***with respect to shipments of waste that fall under the scope of application of this Regulation pursuant to Article 2(1), which are of a complex nature and potentially have serious adverse effects on human health or the environment and where the investigation needed has a cross-border dimension involving at least two countries. The Commission may initiate actions according to these powers*** on its own initiative, on the request of ***the authorities of*** one or more Member States, or on a complaint if there is sufficient suspicion that the carriage of the substance or object concerned or the shipment of waste concerned constitutes an illegal shipment. ***The Commission may also forward such complaints to the competent authorities of the Member States concerned.***

⁵⁴ ***Council Regulation 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82 of 22.3.1997, p. 1).***

If the Commission decides not to act, it shall reply to the authority of the Member States or the persons who sent the complaint in a reasonable time, stating the reasons why they believe there is no sufficient suspicion, unless there are reasons of public interest, such as protecting the confidentiality of administrative or criminal proceedings, not to do so.

The Commission shall also provide the Member States with assistance in organising close and regular cooperation between their competent authorities pursuant to the provisions of Article 68.

■

5. In exercising its powers, the Commission shall take into account the inspections, *prosecuting, legal or administrative proceedings* in progress or already carried out in respect of the same shipments by *the authorities of* a Member State pursuant to this Regulation *and shall ensure not to interfere with such proceedings. When exercising its powers, the Commission shall take into account any request of postponement from an authority of a Member State through its permanent staff responsible for cooperation or through the focal points referred to in Article 62(2).*
6. On completion of its actions, the Commission shall draw up a report. If the Commission concludes that the carriage of the substance or object concerned or the shipment of waste concerned constitutes an illegal shipment, it shall inform the competent authorities of the country or countries concerned accordingly and recommend that such an illegal shipment is dealt with in accordance with Articles 24 and 25. ■ . The Commission may also recommend certain follow-up to the relevant authorities *of the Member States*, and, where necessary inform the Union institutions, bodies, offices and agencies concerned.
7. Reports drawn up on the basis of paragraph 6, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
 - (a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;

- (b) in criminal proceedings of the Member State in which their use proves necessary in the same way and under the same conditions as administrative reports drawn up by national administrative *authorities* and shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative *authorities* and shall have the same evidentiary value as such reports;
- (c) in judicial proceedings before the Court of Justice of the European Union.

The power of the Court of Justice of the European Union and national courts and competent authorities to freely assess the evidential value of the reports drawn up by the Commission according to paragraph 6 shall not be affected by this Regulation.

Article 65

Inspections by the Commission

1. The Commission may, ***in accordance with Article 64***, carry out inspections of shipments pursuant to Article ***57(1) and (2)*** of this Regulation.
 - 1a. ***The Commission may only carry out an inspection where there is sufficient suspicion for an illegal shipment of waste.***
2. The Commission shall prepare and conduct inspections in close cooperation with the relevant authorities of the Member State concerned. ***Such cooperation shall include the exchange of information and the exchange of views on the planning of the inspections and the steps that will be taken. The Commission shall take into account any inspections, ongoing prosecuting, legal or administrative proceedings by administrative or judicial authorities of a Member State.***

The Commission shall give notice ***15 days in advance*** of the object, purpose and legal basis of inspections to the focal points referred to in Article 62(2) in the Member State concerned in whose territory the inspection is to be conducted, so that ***relevant*** authorities may provide the requisite assistance. To that end, officials of the ***relevant authorities of the*** Member State concerned ***shall be given opportunity to*** participate in the inspections. ***In urgent cases, if it is not possible to respect the 15 days' notice, the Commission shall give notice at the first useful moment.***

In addition, upon request of the Member State concerned, the inspections *shall* be carried out jointly by the Commission and the relevant authorities of that Member State.

3. The staff and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection.
4. The staff of the Commission that conduct an inspection shall be empowered to:
 - (a) have access to any premises, land and means of transport of the *notifier, the* person who arranges the shipment, the *waste producer, the waste* holder, the carrier, the consignee or the facility that receives the waste;
 - (b) examine any relevant documents related to the subject-matter and purpose of the inspections, irrespective of the medium on which they are stored, and to take or obtain in any form copies of or extracts from such documents;
 - (c) ask the notifier, the person who arranges the shipment, the *waste producer, the waste* holder, the carrier, the consignee or the facility that receives the waste for explanations on facts or documents relating to the subject-matter and purpose of the inspections and to record the answers;
 - (d) take and record statements from the notifier, the person who arranges the shipment, the *waste producer, the waste* holder, the carrier, the consignee or the facility that receives the waste related to the subject-matter and purpose of the inspections;
 - (e) physically check the waste and take samples of the waste for laboratory tests, where appropriate.
5. The notifier, the person who arranges the shipment, the waste *producer, the waste* holder, the waste carrier, the consignee and the facility that receives the waste shall cooperate with the Commission in the course of its inspections.
6. The authorities of the Member States involved in inspections on the shipments of waste in whose territory the inspection of the Commission is to be conducted shall, at the request of the Commission, provide the necessary assistance to the staff of the Commission.

7. The notifier, the person who arranges the shipment, the waste *producer, the waste* holder, the waste carrier, the consignee and the facility that receives the waste are required to submit *themselves* to inspections of the Commission.
8. Where the Commission finds that the notifier, the person who arranges the shipment, the waste *producer, the waste* holder, the waste carrier, the consignee or the facility that receives the waste opposes an inspection, the *relevant authorities of the* Member State concerned shall, afford the Commission the necessary assistance, requesting where appropriate the assistance of enforcement authorities, so as to enable the Commission to conduct its inspection. If such an assistance requires authorisation from a judicial authority according to national rules, such authorisation shall be applied for.

Article 66

Requests for information

1. The Commission may interview any natural or legal person who consents to be interviewed for the purpose of collecting all necessary information relating to the relevant waste shipments.
2. Where such an interview is conducted in the premises of an establishment, undertaking, broker or dealer, the Commission shall inform the focal points referred to in Article 62(2) in the Member State concerned in whose territory the interview takes place. If so requested by the authority of that Member State, its officials may assist the staff of the Commission to conduct the interview.

The invitation to an interview shall be sent to the person in question with at least 10 working days' notice. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the inspection.

In the latter case, the notice period shall not be less than 24 hours. The invitation shall include a list of the rights of the person concerned, in particular the right to be assisted by a person of his/her choice.

3. The Commission may request legal or natural persons responsible for an establishment or an undertaking, or any broker and dealer to provide all necessary information relating to the relevant waste shipments. The Commission shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided.
4. The Commission shall without delay *make available* the request to the relevant authorities of the Member State in whose territory the seat of the establishment, undertaking, broker or dealer is situated and to the authorities of the Member State whose territory is affected.
5. Where the establishment, undertaking, broker or dealer does not provide the requested information, or the Commission considers the information it received to be insufficient to reach a conclusion, *the second sentence of Article 58(6)* shall apply, *mutatis mutandis*.

Article 67

Procedural guarantees

1. The Commission shall carry out inspections and request information *in compliance with* the procedural guarantees of the *notifier, the person who arranges the shipment, the waste producer, the waste holder, the waste carrier, the consignee or the facility that receives the waste set out in this Article*.
 - 1a. *The notifier, the person who arranges the shipment, the waste producer, the waste holder, the waste carrier, the consignee or the facility that receives the waste shall have:***
 - (a) the right not to make self-incriminating statements;
 - (b) the right to be assisted by a person of choice;
 - (c) the right to use any of the official languages of the Member State where the inspection takes place;

- (d) the right to comment on facts concerning them, *once the inspection has been completed and before the adoption of a report pursuant to Article 64(6). The invitation to comment shall include a summary of the facts concerning the person in question and shall indicate an adequate time limit for submitting comments. In duly justified cases where necessary to preserve the confidentiality of the inspection or of an on-going or future administrative or criminal investigation by a national authority, the Commission may decide to defer the invitation to comment;*
- (e) the right to receive a copy of the record of interview and either approve it or add observations.
- (f) *where the Commission has made judicial recommendations pursuant to Article 64(6), and without prejudice to the confidentiality rights of whistle-blowers and informants, and in accordance with the applicable confidentiality and data protection rules, the person in question may request the Commission to provide the report drawn up under Article 64(6) to the extent that it relates to that person. The Commission shall grant access only with the explicit consent of all recipients of the report.*

The Commission shall seek evidence for and against the *notifier, the* person who arranges the shipment, the waste *producer, the waste* holder, the waste carrier, the consignee or the facility that receives the waste, and carry out inspections and request information objectively and impartially and in accordance with the principle of the presumption of innocence.

2. The Commission shall *ensure the confidentiality of the* inspections, *of the interview and of the* request *carried out pursuant to this section.* Information *transmitted or obtained in the course of the inspections, interview and requests pursuant to this section shall be subject to* data protection rules.

Article 68

Mutual assistance

2. *For the purposes of applying this Regulation* and without prejudice to Articles 61 and 62 of this Regulation *Regulation (EC) No 515/97, except for Article 2a, Articles 18a to 18e, Titles IV to VII, and the Annex*, shall apply *mutatis mutandis* to the cooperation between the *relevant* authorities *of the Member States and the Commission implementing the provisions in this section*.

Title VIII

Final provisions

Article 68a

Format of communications

Where the provisions in Article 26 do not apply or where actors outside the Union are not connected to the central system referred to in Article 26(2), the relevant actors may submit and exchange information and documents referred to in this Regulation by post, fax, email with digital signature, e-mail without digital signature followed by post or, where agreed between the actors concerned, by email without digital signature. In case of email with digital signature, any stamp or signature required shall be replaced by the digital signature.

Article 69

Reporting

1. Before the end of each calendar year, each Member State shall **submit to** the Commission a copy of the report which, in accordance with Article 13(3) of the Basel Convention, it has drawn up and submitted to the Secretariat of that Convention for the previous calendar year.

2. Before the end of each calendar year, Member States shall also draw up a report for the previous *calendar* year, based on the additional reporting questionnaire in Annex XI, and *submit* it to the Commission. Within a month of *submission* of that report to the Commission, Member States shall make the section of that report relating to Articles 24, 57(1) and 60(1), including Table 5 of Annex XI, publicly available, electronically via the internet, together with any explanation that the Member States consider to be appropriate, *and inform the Commission on the related hyperlinks*. The Commission shall compile a list of the Member States' hyperlinks and make it publicly available on its website.
3. The reports drawn up by Member States in accordance with paragraphs 1 and 2 shall be submitted to the Commission in an electronic version.
4. The Commission shall review the data reported in accordance with this Article and publish a report with the results of its review.

In addition, the Commission shall address in that report the following elements:

(a) trends in illegal shipments and best practices to tackle such shipments, taking into account recommendations made by the waste shipment enforcement group referred to in Article 63;

(b) the efficiency of the procedure of prior written notification and consent laid down in Chapter 1 of Title II, and notably the related timelines inter alia by analysing elements such as the amount of objections and consents, and the time between the submission of and a decision taken on a notification, based on data stored in the system referred to in Article 26;

(c) contribution of the Regulation to climate neutrality, achieving circular economy and zero pollution, taking into account the reports and data published by relevant Union's agencies.

The European Environment Agency shall support the Commission in the task of monitoring the implementation of the Regulation by, when appropriate, drawing up reports providing an analysis of the shipments of specific waste streams, and of their environmental impacts.

The report mentioned in the first subparagraph shall be drawn up for the first time by [OP: Please insert date of the end of the fifth year after the date of entry into force of this Regulation] and every **three** years thereafter. ■

5. *After [OP: Please insert the date of 60 months following the date of entry into force of this Regulation], the Commission shall draw up a report assessing whether the implementation of the provisions contained in Articles 36 to 43 has ensured the environmentally sound management of plastic waste, both in the EU and in countries where such waste has been exported from the Union, as well as no significant adverse effects occurred on the treatment of domestic waste in importing countries. It shall take into consideration information and elements provided by Member States involved in export of plastic waste, by the competent authorities of the countries of import, as well as by economic operators and civil society organisations.*

The report shall also provide information on the evolution of the capacity of waste operators in the Union to manage plastic waste generated in the Member States and imported into the Union in an environmentally sound manner.

The report shall also assess if the provisions on the shipments of waste between Member States have contributed to improving the management of plastic waste, especially looking at the classification of plastic waste under code EU3011.

This report shall be accompanied, if appropriate, by a legislative proposal to amend this Regulation, which could include stricter conditions on the export of plastic waste to third countries, including export prohibitions.

Article 70

International cooperation

Member States, where appropriate and necessary in liaison with the Commission, shall cooperate with other Parties to the Basel Convention and inter-State organisations, inter alia, via the exchange and/or sharing of information, the promotion of environmentally sound technologies and the development of appropriate codes of good practice.

Article 71

Designation of competent authorities

Member States shall designate the competent authority or authorities responsible for the implementation of this Regulation. Each Member State shall designate only one single competent authority of transit.

Article 72

Designation of correspondents

Member States and the Commission shall each designate one or more correspondents responsible for informing or advising persons or undertakings making enquiries relating to the implementation of this Regulation. The Commission correspondent shall forward to the correspondents of the Member States any questions put to him or her which concern the Member States, and vice versa.

Article 73

Designation of customs offices of entry and exit

Member States may designate specific customs offices of entry and exit for shipments of waste entering and leaving the Union. Where Member States decide to designate such customs offices, no shipment of waste shall be allowed to use any other border crossing points within a Member State for the purposes of entering or leaving the Union.

Article 74

Notification of, and information regarding, designations

1. Member States shall notify the Commission of designations of:
 - (a) competent authorities, pursuant to Article 71;
 - (b) correspondents, pursuant to Article 72;
 - (c) where relevant, customs offices of entry and exit, pursuant to Article 73.

2. In relation to the designations referred to in paragraph 1, Member States shall provide the Commission with the following information:
 - (a) name(s);
 - (b) postal address(es);
 - (c) e-mail address(es);
 - (d) telephone number(s);
 - (e) languages acceptable to the competent authorities.
3. Member States shall immediately notify the Commission of any changes in the information referred to in *paragraphs 1 and 2*.
4. The information referred to in *paragraphs 1 and 2*, as well as any changes in that information shall be submitted to the Commission electronically.
5. The Commission shall publish on its web-site lists of the designated competent authorities, correspondents and, where relevant, customs offices of entry and exit, and shall update those lists as appropriate.

Article 75

Amendment of Annexes I to XIa

1. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annexes IA, IB, IC, II, III, IIIA, IIIB, IV, V, VI and VII in order to take account of changes agreed under the Basel Convention and the OECD Decision █ .
 - 1a. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IC, in order to adapt it to the implementation of Article 26, after [OP: Please insert the date two years after the date of entry into force of the Regulation].*

2. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IIIA, in order to, following the submission of a request by a Member State or on its own initiative, include in that Annex mixtures of two or more wastes listed in Annex III, ***provided that the composition of those mixtures does not impair their environmentally sound recovery, and, where it is demonstrated that the mixture of waste in question will be managed in an environmentally sound manner within the Union or in countries to which the OECD Decision applies***, provide that one or more of the entries in Annex IIIA ***shall only apply for shipments between Member States, or*** shall not apply for exports to countries to which the OECD Decision does not apply.
3. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IIIB, in order to, following the submission of a request by a Member State or on its own initiative, include in that Annex ***non-hazardous*** wastes not listed in Annex III, Annex IV or Annex V, and, ***where it is demonstrated that the waste in question will be managed in an environmentally sound manner within the Union or in countries to which the OECD Decision applies***, provide that one or more of the entries in Annex IIIB ***shall only apply for shipments between Member States or*** shall not apply for exports to countries to which the OECD Decision does not apply.
4. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend ***Annex VIII as regards*** the form and content of the information referred to in that Annex, ***based on experiences gained during implementation and to update the form and information in that Annex regarding Union legislation and international guidance as regards environmentally sound management on the basis of developments in the relevant international fora or at Union level and to take account of scientific and technical progress***.
5. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex IX, in order to update the lists of Union legislation and international guidance as regards environmentally sound management ***on the basis of developments at Union level or in the relevant international fora***.

6. The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex X as regards the criteria contained in that Annex, *based on experiences gained during implementation and to update the information in that Annex regarding Union legislation and international guidance on the basis of developments in the relevant international fora or at Union level as regards environmentally sound management and to take account of scientific and technical progress.*
7. *The Commission is empowered to adopt delegated acts in accordance with Article 76 to amend Annex XIa as regards the information contained in that Annex, based on experiences gained during implementation.*

Article 76

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 14(3), **15(5a)**, **18(12)**, **26(1a)**, **28(4)**, **36(5)**, **38(1)**, **40(3a)**, **42(4)**, and 75 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles 14(3), **15(5a)**, **18(12)**, **26(1a)**, **28(4)**, **36(5)**, **38(1)**, **40(3a)**, **42(4)**, and 75 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 14(3), **15(5a)**, **18(12)**, **26(1a)**, **28(4)**, **36(5)**, 38(1), **40(3a)**, **42(4)**, and 75 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 77

Committee procedure

1. The Commission shall be assisted by the committee established by Article 39 of Directive 2008/98/EC. That committee **shall be** a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 78

Amendments to Regulation (EU) No 1257/2013

Regulation (EU) No 1257/2013 is amended as follows:

- (1) ***In Article 3(2), the chapeau is replaced by the following:***

“For the purposes of Article 6(2)(a), Article 7(2)(d) and Articles 13, 15 and 16,”;

(2) In Article 6(2) ■ , point (a) is replaced by the following:

“(a) are only recycled at ship recycling facilities that are included in the European List and, in the case of ships which *are considered as hazardous waste, are located in an area under the national jurisdiction of a Member State and are exported from* the Union, only at those facilities included in the European List which are located in countries listed in Annex VII to the Basel Convention.”

Article 79

Amendment to Regulation (EU) No 2020/1056

■ Regulation (EU) No 2020/1056 *is amended as follows:*’

(1) *in Article 2(1)(a), point (iv) is replaced by the following:*

“(iv) Article 9(2), 16(1) and Article 18(1b) of Regulation (EU) No [OP: Please insert the number of this act]; this Regulation is without prejudice to controls by customs offices provided for in relevant provisions of Union legal acts.”;

(2) *in Article 5, the following paragraph is inserted:*

“1a. By way of derogation to paragraph 1, competent authorities shall accept regulatory information, including additional information, pursuant to Regulation (EU) No [OP: Please insert the number of this act] as from 24 months after the date of entry into force of that Regulation [n° new WSR].”;

(2a) *in Article 5, paragraph 2 is deleted;*

(3) *in Article 7, the following paragraph is inserted:*

“3a. By way of derogation to paragraph 3, elements referred to in paragraph 1 that are related to information requirements set out in the provisions referred to in point (iv) of Article 2(1)(a) shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR].”;

(4) *in Article 8, the following paragraph is inserted:*

"3a. By way of derogation to paragraph 3, elements referred to in paragraph 1 that are specifically related to the accessing and processing by the authorities of regulatory information in relation to requirements set out in the provisions referred to in point (iv) of Article 2(1)(a), including the communication with the economic operators in relation to that information, shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR].";

(5) *in Article 9, the following paragraph is inserted:*

"2a. By way of derogation to paragraph 2, elements referred to in paragraph 1 that are specifically related to the processing of regulatory information in relation to requirements set out in the provisions referred to in point (iv) of Article 2(1)(a) shall be adopted no later than the date referred to in Article 26 (4) of Regulation [n° new WSR]."

Article 80

Review

By 31 December 2035, the Commission shall, taking into account, inter alia, the reports drawn up in accordance with Article 69, and the review referred to in Article 59(5), carry out a review of this Regulation and submit a report on the results thereof to the European Parliament and to the Council, accompanied, if the Commission deems it appropriate, by a legislative proposal.

The Commission shall, during its review and as a part of its report, assess in particular:

(a) the efficiency of the procedure of prior written notification and consent laid down in Chapter 1 of Title II, and notably the related timelines in Articles 8, 14, 15 and 16 inter alia by analyzing elements such as the amount of objections and consents, and the time between the submission of and a decision taken on a notification. The Commission may use data stored in the systems referred to in Article 26 for this purpose;

- (b) if publishing data on the shipments of waste in accordance with Article 21 provides adequate transparency, in particular by analysing if and why names of the facilities at destination were considered as confidential due to Union and national legislation by competent authorities or persons who arrange the shipments;*
- (c) if the Regulation sufficiently contributed to climate neutrality, achieving circular economy and zero pollution, taking into account the reports and data published by relevant Union's agencies.*

The Commission shall, during its review and as a part of its report, assess in addition whether the principle of equality in Union law has been respected, evaluate in this context possible impacts to any Member State's competitiveness, and take rectifying measures where deemed necessary.

Article 81

Repeal and transitional provisions

1. Regulation (EC) No 1013/2006 is repealed with effect from [*OP: Please insert the date of entry into force of this Regulation*].
 - 1a. *However, the provisions of Regulation (EC) No 1013/2006 shall continue to apply until [OP: Please insert the date 24 months after the date of entry into force of this Regulation] except for:*
 - a. *Article 30 that shall cease to apply from [OP: Please insert the date of entry into force of this Regulation];*
 - a. *Article 37 that shall continue to apply until [OP: Please insert the date 36 months after the date of entry into force of this Regulation];*
 - b. *Article 51 that shall continue to apply until 31 December [OP Please insert the calendar year 15 months after the date of entry into force of this Regulation].*

■

2. Regulation (EC) No 1013/2006 shall also continue to apply to shipments *for which a notification has been submitted* in accordance with Article 4 of that Regulation and for which the competent authority of destination has given its acknowledgement in accordance with Article 8 of that Regulation before [*OP: Please insert the date 24 months after the date of entry into force of this Regulation*]. For those shipments, the provisions of this Regulation shall not apply.
 - 2a. *Commission Regulation (EC) No 1418/2007 is repealed with effect from [OP: Please insert the date 36 months after the date of entry into force of this Regulation].*
3. *The recovery or disposal of waste in a shipment* for which the competent authorities concerned have given their consent in accordance with Article 9 of Regulation (EC) No 1013/2006 shall be completed not later than one year from [*OP: Please insert the date 24 months after the date of entry into force of this Regulation*].
 - 3a. *Shipment for which the competent authorities concerned have given their consent in accordance with Article 14(2) of Regulation (EC) No 1013/2006 shall be completed not later than three years from [OP: Please insert the date 24 months after the date of entry into force of this Regulation].*
 - 3b. *A pre-consent of a facility in accordance with Article 14 of Regulation (EC) No 1013/2006 shall cease to be valid not later than five years from [OP: Please insert the date of entry into force of this Regulation].*
 - 3c. *References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex XII.*

Article 82

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply from *[OP: Please insert the date 24 months after the entry into force of the Regulation]*.
3. *However, in relation to the following provisions, the following dates of application shall apply* ■
- (-a) Article 79, paragraphs 3 to 5 shall apply from 20 August 2020;*
 - (a) Articles 2(2)(h), 7(10), 15(5a), 18(12), 26(4), 28 (1b) and (4), 30, 38 to 40, 42, 48(6), 58(7), 63 and 75 to 79 from the date of entry into force of this Regulation;*
 - (aa) Article 36(1)(ca) from [OP: Please insert the date 30 months after the date of entry into force of the Regulation];*
 - (b) Articles 37, 43 and 44 from [OP: Please insert the date 36 months after the date of entry into force of the Regulation], except for Article 37(3)(aa) which shall apply from [OP: Please insert the date 24 months after the date of entry into force of the Regulation];*
 - (c) Article 69 from 1 January [OP Please insert the calendar year following the year specified in Article 81(1a)].*

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President