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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Waste shipments Regulation: Follow-up to the WPE on 19 October 2023 – Comments from delegations

Following the call for comments (WK 13585/2023), delegations will find attached comments received from the EL and SI.

SLOVENIA

Comments on document WK13204/2023 INIT

1. Provisional compromise texts pre-agreed with the European Parliament, which need to be confirmed by the Member States

- **Obligations on Member States of export** [Art. 44(1), L651],
When exporting waste, both conditions must be met, not just one.

2. Elements for further reflection in view of future negotiations.

A. **Timelines (Article 8):**

A.2. Decision that notification is no longer valid [Art. 8(3a), L222 and Art. 8(5b) first subparagraph, L226b]

We advocate the longest possible periods – actually, we should follow the same logic as for issuing the decisions in accordance to Art. 9. If that is not possible, we can go along with 10 working days.

B. **Renewal of notifications** [Art. 9(2a) (new), Annex II Part1 (2) subpara. 2]

We do not support the renewal of notifications, since the burden of proof is on the Competent Authority.

It is also not clear how many times certain (i.e the first) notification can be renewed; or notification already renewed, can it be renewed again.

We would be able to support the renewal if the provision would not be obligatory, so to replace a word “shall” with “may”.

C. **Obligations on exporters** [Art. 43; Annex X, Part A; Recital 39, L49; Recital 39a, L49a]

We propose that also assessment of resection of the human rights (ILO Convention) would be part of audit in the facility.

D. **Environmentally Sound Management - Article 56** [Art. 56(2), L751]

We would be able to support inclusion of ILO Convention it is one of criteria for third country to demonstrate compliance with requirements in art 39(3) based on assessment by the Commission in accordance with art. 40.

ANNEX II – Latest proposals from the Parliament:

- **Regarding timelines ('safeguards' to support predictability)**

It is important for Slovenia that **the provisions of Article 8(6) and Article 9(2), third paragraph, are maintained.** We do not agree with the change in the text of art 9(2) third

paragraph. Particularly we do not agree with the deletion of “upon request” and replacement with “unsolicited”. This will represent additional administrative burden for CA.

Proposals for rewording / new text, EP 13/10

Regarding timelines ('safeguards' to support predictability)

Article 9(2), third subparagraph

Where, within 30 days after ~~submission of the notification~~ the date on which the notifier, the competent authority of ~~destination~~ 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 ~~under~~ in accordance with the first subparagraph of paragraph 1, it shall provide the notifier with a motivated explanation ~~[upon request]~~ unsolicited.

A final decision by the competent authority shall be taken within [148 days / corresponding number of WDs] after the submission of the notification, excluding where longer time lines have been agreed in Article 8(2) and 8(5).

Commented [BRDC1]: Nr of days to be determined pending agreement on nr of requests for further information to be made by competent authorities

GREECE

Comments on the Proposal for a Regulation on shipments of waste, and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056 and repealing Regulation (EC) 1013/2006:

(recital 28/L38, Article 21/L371), With regard to public access to notifications concerning waste shipments we consider it necessary to ensure that confidential information is not published, that only verified information is published and that there is a possibility to lodge an objection/appeal.

We do not understand the feasibility of extending the penalties provided for in Article 60 to criminal sanctions, given the negotiated revision of Directive 2008/99/EC on the protection of the environment through criminal law, with a very broad new scope (including explicitly the illegal and intentional ship recycling).

For a number of issues we ask delegates for their flexibilities:

<u>ANNEX</u>	<u>Explanation</u>
Annex IA – packaging type	Can you accept the EP amendment to insert ‘Bale’? We agree that waste is transported in “bales”, and that introduction of a new type of packaging in the list of packaging would be useful. However, we wonder whether this kind of provision of Annex IA would be in accordance with the documentation templates published and agreed within the Basle Convention. To change the meaning of certain numbers would lead to confusion. Actually, the “bale” can be put under “Other”(specify), and the instruction for this can be in Annex IC.
Annex IB – para 2a	COM explains that 2a. was added at request of enforcement community; useful addition – Can you agree that this addition stays? Similarly, to the previous line, we fear that the Annex IB would not be in accordance with the movement document under the Basle Convention. In our opinion the better place and not to change the form would be 14(vi) Other (specify) and in Annex IC can be the instruction for this.
Annex IB – para 19	EP supports COM that that the two lines below stay. Can you agree? ‘Quantity prepared for re-use or recycled: Quantity recovered in other manner:’ Idem - similarly to the previous line. On top, it will be difficult to implement. Normally more than one shipment (not necessary from the same producer), is treated at the same time and not shipment-by-shipment.
Annex IB – packaging type	Can you accept the EP amendment to insert ‘Bale’? For the same reason as explained above for Annex IA, we are not in favour of the insertion.
Annex IC	EP does not agree that Annex IC is just deleted and replaced by Implementing Act.

	Commission suggests to keep Annex IC but empty it. This would also mean to return to COM proposal on Annex IC in L900 which would require in any event a Delegated Act for any changes. As this is also acceptable to EP, could you agree with it? For us, any proposal that guarantee, that the Annex IC would be in place by the day of application of new notification procedure, is acceptable.
Annex III – Part I, point (fa)	<i>(fa) 'for waste shipped within the Union, the reference to "almost free from contamination and other types of waste" [in Basel entry B3011] shall be understood to mean that the content of contamination does not exceed in total a maximum of 6% of the consignment'</i> Do you agree in principle that a threshold as expressed above is acceptable here or in the Delegated Act? We would prefer not to include Fa in the regulation. If absolutely necessary for the compromise we would be open to regulate this in the Delegated act.
Annex V, paragraph 2, subparagraphs 2 and 3	EP and COM propose to delete these two subparas, as no added value after the amendments in the first subpara. The amendments discussed during ITM to those introductory notes in Annex V aim to clarify where to find out the types of hazardous waste which are covered by the export prohibition in Article 36. It was indeed considered that the text contained in the Commission's proposal (which is identical to the one under the current Regulation on waste shipment) was not entirely clear on some aspects, notably the interplay between the Annexes of the Basel Convention and the EU List of waste adopted under Article 7 of the waste framework Directive. The proposed amendments make it clear that the export prohibition in Article 36 applies to waste which are classified as hazardous waste, either because they are

	covered by Annex VIII of the Basel Convention or because they are listed as hazardous in the EU list of waste. For waste listed in Annex IX of the Basel Convention and listed as non-hazardous in the EU list of waste, the last paragraph ensures that such waste would still be covered by the export prohibition in case it exhibits hazard properties or it is contaminated to an extent that the environmentally sound recovery is prevented. Do you agree that the two subparas can be deleted?
Annex VII – paragraph 15	COM explains that this ('Quantity prepared for re-use...') was added to better know how much waste is leaving a country to be recycled or prepared for reuse (and to help MSs in calculating this). EP supports COM that this should stay. Could you accept this? <i>We don't see any added value, but if it helps to reach compromise we could be flexible.</i>
Annex VIII – paragraph 7a	EP will assess which ILO Conventions apply and wants to list them here. Could you agree? <i>Yes.</i>