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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 18 October 2024 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
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| Subject: | COMMISSION DELEGATED REGULATION (EU) .../... of 18.10.2024 amending Regulation (EU) 2024/1157 as regards changes on shipments of electrical and electronic waste agreed under the Basel Convention |

Delegations will find attached document C(2024) 7199 final.

Encl.: C(2024) 7199 final



EUROPEAN
COMMISSION

Brussels, 18.10.2024
C(2024) 7199 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 18.10.2024

**amending Regulation (EU) 2024/1157 as regards changes on shipments of electrical and
electronic waste agreed under the Basel Convention**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Union and its Member States are Parties to the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal ('the Basel Convention'), which was adopted on 22 March 1989 and entered into force in 1992¹. The Basel Convention has 191 Parties.

The Conference of the Parties of the Basel Convention decided at its fifteenth meeting on 17 June 2022 to include all electrical and electronic waste under the control mechanisms of the Convention (Decision BC-15/18). These types of waste will be included in Annexes II and VIII of the Basel Convention. The current entries for such waste in Annexes VIII and IX will be replaced by the new entries. These changes will improve controls of transboundary shipments of electrical and electronic waste, thereby encouraging their environmentally sound management and contributing to curb illegal cross-border movement of waste.

These changes will become effective on 1 January 2025.

Similar changes have been made to Regulation (EC) No 1013/2006, which has been repealed by Regulation (EU) 2024/1157 as of 20 May 2024, but which will continue to apply until 21 May 2026 except for certain provisions. In order to ensure continuity in implementing the amendments to the Basel Convention, Regulation (EU) 2024/1157 should be amended accordingly.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Delegated Regulation has been developed to implement into EU law the above changes to the Basel Convention's annexes and builds on the wording of the decision on this matter adopted by the Conference of the Parties (COP) to the Basel Convention at its fifteenth meeting. There was substantial consultation of Member States and stakeholders on this issue, at the occasion of the definition of the EU position at the COP of the Basel Convention and afterwards.

The implementation of the respective changes to the Basel Convention through this Delegated Regulation was then further discussed with the Member States at meetings of the Council Working Party on International Environmental Issues, dealing with the Basel Convention and during an Expert Group Meeting on Waste held on 13 May 2024². Stakeholders were also informed throughout this process and could take part in the expert group meeting. Stakeholders were informally consulted on the issue by the Commission in the course of February 2024. The Commission discussed the draft also during several bilateral meetings with stakeholders.

The draft act was published for public feedback³, and during the period between 5 June 2024 and 3 July 2024, the Commission received comments and input from 18 stakeholders. Given that the substance of this Delegated Regulation is similar to the draft Delegated Regulation amending the Regulation (EC) No 1013/2006 that was published for public feedback in the

¹ Council Decision 93/98/EEC concerning the conclusion, on behalf of the Community, of the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal, OJ L 39, 16.2.1993, p. 1.

² <https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=53508&fromExpertGroups=03343>

³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14174-Trade-in-e-waste-2-amendments-to-the-Basel-Convention-annexes_en

same period of time⁴ and due to the fact that some positions of stakeholders provided for that act are relevant also for this Delegated Regulation, all these statements were considered jointly.

The public feedback consultation showed broad support for the incorporation of the new entries of the Basel Convention on electrical and electronic waste into EU law, when it comes to the rules on export of electrical and electronic waste from the EU to third countries, as well as on the import from these countries to the EU. The incorporation of the new entry on **hazardous** electrical and electronic waste of the Basel Convention, when it comes to the shipments of such waste between Member States, was also largely supported.

On the other hand, a number of recyclers and recyclers' associations, as well as representatives from various industrial sectors, indicated that it would be disproportionate to apply the "prior written notification and consent procedure" to shipments of **non-hazardous** electrical and electronic waste between Member States, which are currently subject to the "general information requirements" under article 18 of Regulation 1013/2006 (so called "green-listed procedure"). They argue that the rules for the treatment of such waste are harmonised across the EU and ensure a similar level of environmental protection in the Member States. Large quantities of such waste are shipped for recycling between Member States. The application of the "prior written notification and consent procedure" would entail delays and new costs for such shipments. This would undermine the EU objectives to increase recycling of electrical and electronic waste, in particular for critical raw materials.

Many of the stakeholders that expressed this concern suggested to maintain the current rules on the shipments of e-waste within the EU, including the classification of non-hazardous e-waste under the entries GC010 and GC020, until 1 January 2027. At that time the system to implement the mandatory electronic exchange of waste shipment related information and documents established under the Regulation (EU) 2024/1157 is expected to be fully operational and would allow for an efficient full implementation of the Basel controls after 1 January 2027. This would mean that for non-hazardous e-waste the general information requirements of Article 18 of Regulation (EC) No 1013/2006 would remain applicable until Article 18 of that Regulation is no longer applicable.

The Commission considered all the arguments raised, including new data provided by stakeholders concerning the amounts of non-hazardous electrical and electronic waste shipped between Member States in accordance with general information requirements of Article 18 of Regulation (EC) 1013/2006. As a result, changes were made to the delegated act, on which the Member States and stakeholders were consulted in September 2024. The change relates to the regime which would apply to the shipments of non-hazardous e-waste within the EU, which would continue to be subject to the same rules as the ones which are currently in force, until 1st January 2027. The choice of 1st January 2027 is linked to the fact that, by that date, the digital system for the shipments of waste foreseen in Article 27 of Regulation (EU) 2024/1157 will be fully operational.

The new entries in the Basel Convention concerning electrical and electronic waste will become effective as of 1 January 2025 on global level. Implementation of the new entries into EU law should be done by that date. Distinguishing the start of application of rules concerning export of such waste outside the EU and concerning shipments of such waste between Member States risks to negatively impact legal clarity and cause enforcement actions to become more complicated. On the other hand, allowing for a transitional period in which the current rules on shipping green-listed e-waste between Member States would continue to

⁴ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14176-Trade-in-e-waste-1-amendments-to-the-Basel-Convention-annexes_en

apply until the application of digitalised procedures lower the administrative burdens when subjecting waste to the notification procedure, will facilitate the shipment of such waste to the proper recycling facilities in line with the circular economy objectives while ensuring sufficient control still. Shipments of green-listed waste are monitored under the “general information requirements” under Article 18 of Regulation (EU) 2024/1157. This means that each shipment must be accompanied with the information contained in Annex VII of that Regulation. This procedure is a specific measure under EU legislation, applying to all green-listed waste, as a guarantee on traceability and sustainability for the shipments of this waste and its management.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Commission is empowered to adopt delegated acts through Article 79 of Regulation (EU) 2024/1157 on shipments of waste to amend the annexes of the Regulation to take account of changes and reflect decisions agreed under the Basel Convention.

This delegated act provides for changes in Annexes III, IV and V to Regulation (EU) 2024/1157, taking into account Council Decision (EU) 2020/1829 of 24 November 2020⁵.

These changes are designed to:

- incorporate the new entry on hazardous electrical and electronic waste (A1181) agreed under the Basel Convention into Regulation (EU) 2024/1157 (Annex V),
- incorporate the new entry on non-hazardous electrical and electronic waste (Y49) agreed under the Basel Convention into Regulation (EU) 2024/1157 (Annex V),
- delete the references to entry B1110 in Annex III, as this entry will no longer apply from 1 January 2025,
- delete the references to entry A1180, in Annex IV, as this entry will no longer apply from 1 January 2025,
- delete the references to entry A1180 as well as to entries B1110 and B4030, in Annex V, as these entries will no longer apply from 1 January 2025,
- allow for shipping non-hazardous e-waste classified under entries GC010 and GC020 within the Union in accordance with the general requirements of Article 18 of Regulation (EC) 1013/2006 until 31 December 2026.

The delegated act has no implications for the EU budget.

⁵ See Council Decision (EU) 2020/1829 of 24 November 2020, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020D1829&from=en>

COMMISSION DELEGATED REGULATION (EU) .../...

of 18.10.2024

amending Regulation (EU) 2024/1157 as regards changes on shipments of electrical and electronic waste agreed under the Basel Convention

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/1157 of the European Parliament and of the Council on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006⁶, and in particular Article 79(1) thereof,

Whereas:

- (1) The Conference of the Parties to the Basel Convention decided at its fifteenth meeting held in June 2022, by Decision BC-15/18, to include a new entry for hazardous electrical and electronic waste (entry A1181) in Annex VIII to the Basel Convention, while deleting entry A1180 in that Annex and adding a new entry for non-hazardous electrical and electronic waste (entry Y49) in Annex II to the Basel Convention, while deleting the current entry for such waste (entry B1110) in Annex IX to the Basel Convention as well as deleting entry B4030 in Annex IX to the Basel Convention. Those changes will become effective on 1 January 2025.
- (2) It is appropriate for the Union, which is a Party to the Basel Convention, to modify the entries related to electrical and electronic waste in the relevant Annexes to Regulation (EU) 2024/1157 where they refer to the Annexes to the Basel Convention.
- (3) With respect to export of electrical and electronic waste from the Union to third countries and import of such waste into the Union from third countries, Annexes III, IV and V to Regulation (EU) 2024/1157 should take account of the changes to Annexes II, VIII and IX to the Basel Convention. As a result, from 1 January 2025, exports from the Union to third countries to which the Organisation for Economic Cooperation and Development (OECD) Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations⁷ ('the OECD Decision') applies and imports into the Union of electrical and electronic waste under entry A1181 in Annex VIII to the Basel Convention and under entry Y49 in Annex II to the Basel Convention, should be subject to the procedure of prior written notification and consent. In accordance with Article 39(1), points (a) and (c), of Regulation (EU) 2024/1157, and Annex V to that Regulation, the export of electrical and electronic waste under entries A1181 in Annex VIII to the Basel Convention and Y49 in Annex II to the Basel Convention to third countries to which the OECD Decision does not apply should be prohibited.

⁶ OJ L, 2024/1157, 30.4.2024, ELI: <http://data.europa.eu/eli/reg/2024/1157/oj>.

⁷ OECD/LEGAL/0266.

- (4) As regards shipments of non-hazardous electrical and electronic waste between Member States, the entries GC010 and GC020 should remain applicable until 31 December 2026. These shipments are subject to the general information requirements set out in Article 18 of Regulation (EU) 2024/1157, which ensures the supervision and control of the shipments of green-listed waste with a view to their environmentally sound management. From 1 January 2027, all electrical and electronic waste shipped within the Union should be classified under entries Y49 or A1181 and their shipments should be subject to the procedure of prior written notification and consent. By that date, the central system for the submission and exchange of documents and information concerning shipments of waste referred to in Article 27 of Regulation (EU) 2024/1157 is to be fully operational. This system will facilitate the process of obtaining consents for shipments of such waste.
- (5) This Regulation takes account of the fact that no agreement has been reached within the OECD to incorporate the amendments to the Annexes to the Basel Convention on electrical and electronic waste into the Appendices of the OECD Decision. The entries GC010 and GC020 in Annexes III and IV of Regulation (EU) 2024/1157 should therefore no longer be applied for export of electrical and electronic waste from the Union to third countries and import of such waste into the Union from third countries.
- (6) Regulation (EU) 2024/1157 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes III, IV and V to Regulation (EU) 2024/1157 are amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 18.10.2024

For the Commission
The President
Ursula VON DER LEYEN