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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2020) 7091 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 19.10.2020 amending Annexes IC, III, IIIA, IV, V, VII and VIII to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste

Delegations will find attached document C(2020) 7091 final.

Encl.: C(2020) 7091 final



Brussels, 19.10.2020
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COMMISSION DELEGATED REGULATION (EU) .../...

of 19.10.2020

amending Annexes IC, III, IIIA, IV, V, VII and VIII to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste

(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 Convention now binds 187 Parties.

The Conference of the Parties of the Basel Convention decided at its fourteenth meeting on 10 May 2019 to include certain plastic waste under the control mechanisms of the Convention. These types of waste are included in Annexes II and VIII of the Convention. The only types of plastic waste excluded from these obligations are those which are destined for recycling and are, due to their composition, easy to be recycled. This waste is included in Annex IX of the Convention. These changes will improve controls of transboundary shipments of plastic 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 2021.

The OECD Decision on Transboundary Movements of Waste destined for Recovery Operations has a legally binding nature. The Environment Policy Committee to the OECD adopted changes to Appendix 4 of the OECD Decision related to hazardous plastic waste and clarifications in Appendices 3 and 4 of the OECD Decision through written procedure on [7 September 2020]. These changes will become effective on 1 January 2021.

Furthermore, since the last three Conferences of the Parties a series of guidelines and guidance documents was developed or updated under the umbrella of the Convention.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Delegated Regulation has been developed to implement 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 fourteenth meeting. This Delegated Regulation has also been developed to implement the changes to the Appendices of the OECD Decision on which agreement has been reached. There was substantial consultations of Member States and stakeholders on this issue, at the occasion of the definition of the position of the EU and its Member States at the CoP of the Basel Convention and afterwards, as well as in relation to the definition the position of the EU and its Member States at OECD level.

The implementation of the respective changes to the Basel Convention and the OECD Decision through this delegated act was then further discussed with the Member States at meetings of the Council Working Party on International Environmental Issues, dealing with the Basel Convention. Stakeholders were also informed throughout this process. Notably,

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.

stakeholders were informally consulted on the issue by the European Commission in the course of May 2020.

The draft delegated act was also published on the Commission's webpage for public feedback for 4 weeks, between 24 June and 22 July 2020.

The Commission took account of the inputs received during these consultations and amended the draft delegated act on a number of points.

The expert group on waste was then consulted by the Commission on the draft delegated act on [date to be added]. At this occasion, the draft delegated act was also transmitted to the European Parliament and the Council.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Commission is empowered to adopt delegated acts through article 58 of the Waste Shipment Regulation (EC) 1013/2006 to amend the annexes of the Regulation to take account of changes and reflect decisions agreed under the Basel Convention and to take account of changes agreed under the OECD Decision.

This delegated act provides for changes in Annex III, IIIA, IV, V and VIII of the waste shipment regulation, taking into account Council Decision (EU) 2019/638 of 15 April 2019 which inter alia had the purpose of maintaining the current controls for shipments of non-hazardous plastic waste within the Union in order to contribute to circular economy.

These changes are designed to:

- incorporate the new entry on hazardous plastic waste (A3210) agreed under the Basel Convention into the waste shipment regulation (Annex V), as well as incorporate the new entry on hazardous plastic waste (AC300) agreed under the OECD Decision into Annex IV of the waste shipment regulation,
- incorporate the new entries on non-hazardous plastic waste (B3011 and Y48) agreed under the Basel Convention into the waste shipment regulation (Annex V), as far as export and import from the Union to third countries are concerned,
- include new entries for non-hazardous plastic waste into the waste shipment regulation (Annex III and IV) for shipments within the Union, which take into account certain changes agreed under the Basel Convention (especially relating to the terminology used to describe the waste in question) while maintaining the current controls for such shipments within the Union,
- adjust the wording in Annex IIIA of the Waste Shipment Regulation relating to mixtures of plastic waste, to take account of the other changes above,
- add in Annex VII the possibility to refer to the new entry for green-listed plastic waste, when shipping it between Member States,
- update the list in Annex VIII of technical guidelines and guidance documents with new guidelines and guidance documents on the environmentally sound management

of waste adopted in recent years by the Conference of the Parties to the Basel Convention.

In accordance with the principle of proportionality, the measure does not go beyond what is necessary to achieve its objective.

The proposal has no implications for the EU budget.

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

of 19.10.2020

amending Annexes IC, III, IIIA, IV, V, VII and VIII to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste², and in particular points (a) and (c) of Article 58(1) thereof,

Whereas:

- (1) The Conference of the Parties to the Basel Convention decided at its fourteenth meeting held in May 2019, by Decision BC-14/12, to include a new entry for hazardous plastics waste (entry A3210) in Annex VIII and two new entries for non-hazardous plastic waste in Annex II (entry Y48) and Annex IX (entry B3011) to the Basel Convention. Those changes will become effective on 1 January 2021.
- (2) It is appropriate for the Union, which is a Party to the Basel Convention, to modify the relevant Annexes to Regulation (EC) No 1013/2006 to take account of changes relating to entries on plastic waste in the Annexes to the Basel Convention.
- (3) The Environment Policy Committee to the OECD adopted changes to Appendix 4 of the OECD Decision³, relating to hazardous plastic waste and clarifications in Appendices 3 and 4 of the OECD Decision on [7 September 2020]. Those changes will become effective on 1 January 2021. It is appropriate for the Union to modify the relevant Annexes to Regulation (EC) No 1013/2006 to take account of these changes.
- (4) 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 non-hazardous plastic waste (entries B3011 and Y48) into the Appendices of the OECD Decision.
- (5) With respect to export of plastic waste from the Union to third countries and import of plastic waste into the Union from third countries, Annexes III, IV and V to Regulation (EC) No 1013/2006 should be amended to take account of the changes to Annexes II,

² OJ L 190, 12.7.2006, p. 1

³ Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations.

VIII and IX to the Basel Convention and of the changes to Appendix 4 to the OECD Decision. As a result, from 1 January 2021, the export from the Union and import into the Union of plastic waste under entries AC300 and Y48 to and from third countries to which the OECD Decision⁴ applies will be subject to the procedure of prior written notification and consent. In accordance with points (a) and (b) of Article 36(1) and Annex V of Regulation (EC) No 1013/2006, export of plastic waste under entries A3210 and Y48 will be prohibited to third countries to which the OECD Decision does not apply.

- (6) In view of the fact that the Union has submitted a notification, covering shipment of waste within the Union, to the Secretariat of the Basel Convention under Article 11 of that Convention, there is no requirement for the Union to implement the changes to the Annexes to the Basel Convention relating to non-hazardous plastic waste (entries B3011 and Y48) in Union law, for shipments between Member States. However, to ensure legal clarity, new entries for shipments of non-hazardous plastic waste within the Union should be introduced in Annexes III, IIIA and IV to Regulation (EC) No 1013/2006 which take account of the terminology used in the new entries B3011 and Y48 in the Basel Convention, and by which current controls on such shipments within the Union are largely maintained.
- (7) A number of technical guidelines and guidance documents on the environmentally sound management of various waste streams were adopted at the last meetings of the Conference of the Parties to the Basel Convention. Those technical guidelines and guidance documents provide useful guidance and should therefore be added in Annex VIII to Regulation (EC) No 1013/2006.
- (8) Regulation (EC) No 1013/2006 should therefore be amended accordingly.
- (9) Since the changes to the Annexes to the Basel Convention and the Appendices to the OECD Decision will become effective on 1 January 2021, the amendments to Regulation (EC) No 1013/2006 that relate to those changes should also become effective on 1 January 2021.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1013/2006 is amended as follows:

- (1) Annexes IC, III, IIIA, IV, V and VII are amended in accordance with Annex I to this Regulation;
- (2) Annex VIII is replaced by the text in Annex II to this Regulation.

⁴ Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations.

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*.

Article 1(1) shall apply from 1 January 2021.

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

Done at Brussels, 19.10.2020

For the Commission
The President
Ursula VON DER LEYEN