



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.02.1996
COM(96) 62 final

95/ 0107 (SYN)

Amended proposal for a

COUNCIL REGULATION (EC)

**amending Regulation (EEC) N° 259/93 on
the supervision and control of shipments of waste
within, into and out of the European Community**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

to the amended proposal from the Commission for a Council Regulation amending Council Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community

In accordance with Article 130s, paragraph 1, of the EC Treaty, the Council consulted the European Parliament on the proposal for a Regulation amending Regulation (EEC) N° 259/93¹ on the supervision and control of shipments of waste within, into and out of the European Community (COM(95) 143 final, 95/0107 SYN). At its Sessions of 16 November 1995 and 16 January 1996, the European Parliament approved a total of 5 amendments, 4 of which were accepted by the Commission². These amendments are discussed below and 4 are included in the present modified proposal.

Amendments accepted by the Commission

Amendments of the recitals:

Relevant background matters like the decision of the Third Conference of the Parties on the amendment of the Basel Convention and the fact that EC definitions and lists do not entirely concur with those of the Basel Convention and will therefore have to be adjusted in the future, in particular to the list of hazardous wastes to be developed by that Convention are now included in the recitals (amendments 1 and 3). The Commission's intention to establish, by way of the appropriate Committee procedure and as soon as possible, an Annex II(a) listing those wastes featuring on the Community's list of hazardous wastes but which are not listed in Annex III or IV of the Regulation is also included (compromise amendment 8) in order to subject also those wastes to the export ban.

Amendment of Articles of Regulation (EEC) N° 259/93:

As amended in line with compromise amendment 9, which replaces amendment 4, the scope of application of the proposed Regulation amending Regulation (EEC) N° 259/93 is extended to cover not only wastes listed in Annex III and IV, but also wastes listed in a new Annex II(a). The objective of this amendment is to effectively implement "Decision II/12", i.e. to subject to the prohibition of exports as of 1998 all wastes which are considered hazardous under Community legislation .

In order to ensure this, Regulation (EEC) N° 259/93 and the EC list of hazardous waste as adopted by Council Decision 94/904/EC³ need to be made coherent with each other. To this end the Commission will seize the appropriate implementation Committee with a proposal to list those wastes which are considered hazardous in the Community since they feature on the

¹ OJ N° L 30, 6.2.1993, p. 1

² Minutes of the Session of 16 November 1995, provisional edition, PE 195.171, pages 39-40, and of 16 January 1996, provisional edition, PE 195.831, page 16

³ OJ N° L 356, 31.12.1994, p. 14

list of hazardous wastes but which do not feature in Annex III or IV of Regulation (EEC) N° 259/93 in a new Annex II(a) to the Regulation. The proposed Regulation amending Regulation (EEC) N° 259/93 will also apply to wastes listed in this new Annex II(a).

The Commission considers that this amendment takes away doubts as to whether all hazardous wastes would be covered by merely Annex III and IV of Regulation (EEC) N° 259/93, while it guarantees sufficient transparency for economic operators.

Amendment not accepted by the Commission:

The only amendment (amendment 2) not accepted by the Commission was considered superfluous since it overlaps with another amendment (amendment 3), which is accepted by the Commission. Amendment 3 is more accurately drafted and is more complete in mentioning that in the future EC definitions and lists will have to be adapted to those of the Basel Convention.

In accordance with Article 189a, paragraph 2, of the EC Treaty, the Commission modifies as follows the text of its proposal concerning the prohibition of shipments of hazardous waste destined for recovery to non-OECD countries as of 1 January 1998 in order to include the accepted amendments into its proposal.

COMMISSION

Amended proposal for a Council Regulation amending Regulation (EEC) N° 259/93 on the supervision and control of shipments of waste within, into and out of the European Community

COM(95) 143 final - SYN 95/0107

(Submitted by the Commission pursuant to Article 189a, paragraph 2, of the EC Treaty on
.....)

ORIGINAL PROPOSAL

AMENDED PROPOSAL

new recitals:

Whereas the Third Conference of the Parties to the Basel Convention decided that the export of hazardous waste for recycling purposes from OECD to non-OECD countries shall be prohibited from 1 January 1998 on;

Whereas the EU's definitions of hazardous waste do not entirely concur at the present time with those of the Basel Convention and as this could result in waste covered by the Basel Convention's export ban still being exported from the EU, the EU's definitions and lists in this respect must be adjusted;

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Whereas the Commission, in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC, will as soon as possible establish an Annex II(a) listing those wastes featuring on the list of hazardous wastes as adopted by Council Decision 94/904/EC¹ but which are not listed in Annex III or IV; whereas exports of wastes listed in this Annex II(a) will also be prohibited from 1 January 1998 onwards.

HAS ADOPTED THIS REGULATION:

HAS ADOPTED THIS REGULATION:

Article 1

Article 1

Regulation (EEC) N° 259/93 is hereby amended as follows:

Regulation (EEC) N° 259/93 is hereby amended as follows:

1. Article 16, paragraph 1 is replaced by the following:

1. Article 16, paragraph 1 is replaced by the following:

"Article 16

"Article 16

1. All exports of waste listed in Annexes III and IV for recovery shall be prohibited except those to:

1. All exports of waste listed in Annexes III and IV for recovery shall be prohibited except those to:

(a) countries to which the OECD Decision applies;

(a) countries to which the OECD Decision applies;

(b) other countries:

(b) other countries:

- which are Parties to the Basel Convention and/or with which the Community, or the Community and its

- which are Parties to the Basel Convention and/or with which the Community, or the Community and its

¹ Council Decision 94/904/EC of 22 December 1994, establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste; OJ L 356 of 31.12.1994, p. 14.

Member States, have concluded bilateral or multilateral or regional agreements or arrangements in accordance with Article 11 of the Basel Convention and paragraph 2. Any such exports shall however be prohibited from 1 January 1998 onwards.

- with which individual Member States have concluded bilateral agreements and arrangements prior to the date of application of this Regulation, in so far as these are compatible with Community legislation and in accordance with Article 11 of the Basel Convention and paragraph 2.

These agreements and arrangements shall be notified to the Commission within three months of the date of application of this Regulation or of their date of application, whichever is earlier, and shall expire when agreements or arrangements are concluded in accordance with the first indent. Any such exports shall however be prohibited from 1 January 1998 onwards.

Member States, have concluded bilateral or multilateral or regional agreements or arrangements in accordance with Article 11 of the Basel Convention and paragraph 2. Any such exports shall however be prohibited from 1 January 1998 onwards.

- with which individual Member States have concluded bilateral agreements and arrangements prior to the date of application of this Regulation, in so far as these are compatible with Community legislation and in accordance with Article 11 of the Basel Convention and paragraph 2.

These agreements and arrangements shall be notified to the Commission within three months of the date of application of this Regulation or of their date of application, whichever is earlier, and shall expire when agreements or arrangements are concluded in accordance with the first indent. Any such exports shall however be prohibited from 1 January 1998 onwards.

The Commission, in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC, will as soon as possible establish an Annex II(a) listing those wastes featuring on the list of hazardous wastes as adopted by Council Decision 94/904/EC but which are not listed in Annex III or IV. Exports of wastes listed in this Annex II(a) will also be prohibited from 1 January 1998 onwards.

ISSN 0254-1475

COM(96) 62 final

DOCUMENTS

EN

14 11

Catalogue number : CB-CO-96-071-EN-C

ISBN 92-78-00599-1

Office for Official Publications of the European Communities

L-2985 Luxembourg