Shipments of waste, Basel Convention 1989 and OECD Decision 1992

2003/0139(COD) - 08/03/2004 - Modified legislative proposal

The Commission rejects the majority of the 103 amendments adopted by the Parliament since they pursue national solutions to certain waste management problems in relation to waste destined for recovery. This is not coherent with the Commission's overall objectives - namely harmonisation at Community level. In addition they would restrict shipments of waste extensively. The Commission does not accept the amendments that entail changes to the specific entries of the lists of waste as annexed to the proposal. Not because the Commission disagrees on substance but rather because it is not the appropriate context. Changes to the lists of waste should be done in the legislation from where they originate. In addition, these changes would go against one of the main objectives of the proposal - the international harmonisation in the field of lists of waste. However, a number of amendments are acceptable to the Commission because they improve or clarify the Commission's proposal. These include: - adding relevant references to resolutions and strategies regarding waste management or add factual information; - adding an explicit reference to territorial waters to be included in the definition of country of transit; - allowing the competent authorities to derogate from the requirement of establishing a financial guarantee in cases where a shipment is carried out by a public-law entity, a municipal undertaking, a company run on its own account by a public-law entity; - providing for less strict procedures in relation to shipments of waste under regional municipal waste management cooperation; - allowing objections to shipments destined for disposal because a Member State wishes to exercise its right pursuant to Art 4(1) of the Basle Convention to prohibit the import of hazardous wastes, or of wastes listed in Annex II of the Basle Convention; - allowing objections to shipments for recovery of mixed household waste; - deleting the entire article regarding pre-consented recovery facilities; - limiting the scope of Art 20 regarding prior information in relation to shipments of waste destined for laboratory analysis as described in Art 3(4) to only hazardous waste; - adding certain internationally agreed guidelines to Annex IX. The ILO and IMO guidelines on ship-recycling and the OECD guidelines on PCs are added. Amendments accepted in principle by the Commission include: - adding to the definition of country of transit; - providing that the Commission could establish maximum levels for administrative costs charged to the notifier; - providing for the assessment of environmentally sound management in relation to exports of waste to outside the Community; - ranking of the lists of waste contained in Annex V (related to the ban on export of hazardous waste) to the effect that the EU hazardous waste list prevails over the Basel non-hazardous waste list (both listed in the Annex); - clarification that ending of a shipment requires that the waste has been finally treated in the country of destination; - clarification of the definition of country of dispatch; however, this is supplemented by a paragraph prioritising thedifferent options for which country is to be considered the dispatch country in the case of conflict; - possibility of derogations from the requirement of establishing a financial guarantee in relation to certain public entities; - less stringent procedures in relation to specific geographical circumstances; - public access to notifications; - stressing co-operation and harmonisation between competent authorities in the case of electronic data exchange. Amendments not accepted by the Commission include: - changing the legal base from environment and trade (Arts 175 and 133) to only environment (Art 175); - excluding imports into the Community of (military) waste generated during an out-of-area operation by part of the armed forces of a Member State from the region concerned to that MS; - deleting Art 1(6) that allows for a possible exclusion of animal by-products from the scope of the Regulation; - re-defining the concepts of recovery and disposal as only covering final operations; - making non-hazardous waste as listed in Annex III subject to prior written notification but not consent; - deleting the obligation to provide a copy of the contract upon request by the competent authorities concerned in relation to shipments of non-hazardous waste for recovery (for the person who arranges the shipment); - adding shipments destined for research/experimental purposes as shipments excluded from the notification procedure; - increasing the amounts of waste that can be shipped for laboratory analysis without notification from a maximum of 25 kg to 30 times 25 kg; - in addition to waste

containing POPs - establishing that also shipments of waste consisting of, containing or contaminated with asbestos - are subject to the same provisions as shipments of waste destined for disposal. - allowing tacit consent from all competent authorities (and not just those of transit) in relation to shipments of waste destined for recovery; - that notification and movement documents can be issued under specific regulation introduced by Member States; - establishing that the financial guarantee is only required to be established and legally binding when the shipment starts, instead of at the time of notification; - limiting the validity of a written and tacit consent from one calendar year to 180 days; - deleting the possibility of having consent expire only after two years when an interim facility is involved in the shipment; - further reasons that can justify an objection to a shipment of waste destined for disposal; - deleting the reference to self-sufficiency at Community level; - adding that a shipment can be objected to on the basis of national legislation if no obligations in relation to disposal exists at Community level; - further reasons that can justify an objection to a shipment of waste destined for recovery; - the establishment of certain criteria in relation to recovery; - adding that shipment can be objected to on the basis of national legislation if no obligations in relation to recovery or recycling exists at Community level; - deleting the possibility that the competent authorities concerned can agree with the notifier not to require a new notification in the case where problems in relation to objections have not been solved within a certain time limit; - regarding a simplified procedure in relation to take-back schemes; - shortening the deadline for issuing certificate of final treatment to 7 and 180 days instead of 30 and one calendar year (following completion and receipt of the notified waste respectively); - amendment to the effect that if the competent authorities of dispatch and destination disagree on the classification of the waste treatment operation notified as being disposal or recovery, the opinion of the authorities of destination shall prevail; - adding a further condition in relation to imports into the Community of waste for recovery to the effect that in relation to hazardous waste, the competent authority of dispatch outside the Community shall present a duly motivated request beforehand stating that they do not have and cannot reasonably acquire the technical capacity and the necessary facilities in order to treat of the waste in an environmentally sound manner; - changes to the specific entries of the lists of waste as annexed to the proposal.