

Regulation (EC) No 1013/2006 of the European Parliament
and of the Council of 14 June 2006 on shipments of waste

TITLE IV

EXPORTS ^{F1}... TO THIRD COUNTRIES

CHAPTER 2

Exports of waste for recovery

Section 2

Exports to ^{F1}EU or] OECD-Decision countries

Article 38

Exports of waste listed in Annexes III, IIIA, IIIB, IV and IVA

1 Where waste listed in Annexes III, IIIA, IIIB, IV and IVA, waste not classified or mixtures of wastes not classified under one single entry in either Annex III, IV or IVA are exported from the [^{F2}United Kingdom] and destined for recovery in [^{F3}an EU country or country] to which the OECD Decision applies, with or without transit through [^{F4}one or more EU countries or] countries to which the OECD Decision applies, the provisions of Title II shall apply ^{F5}..., with the adaptations and additions listed in paragraphs 2, 3 and 5.

2 [^{F6}Except where waste is destined for recovery in an EU country, the] following adaptations shall apply:

- a mixtures of wastes listed in Annex IIIA destined for an interim operation shall be subject to the procedure of prior written notification and consent if any subsequent interim or non-interim recovery or disposal operation is to take place in a [^{F7}non-EU] country to which the OECD Decision does not apply;
- b waste listed in Annex IIIB shall be subject to the procedure of prior written notification and consent;
- c the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of destination ^{F8}....

3 As regards exports of waste listed in Annexes IV and IVA, the following additional provisions shall apply:

- ^{F9}a
- ^{F9}b
- ^{F9}c

d if, 42 days after the waste has left [^{F10}the United Kingdom], the competent authority of dispatch in [^{F10}the United Kingdom] has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination; and

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- e ^{F11}except where waste is destined for recovery in an EU country,] the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
- (i) if a facility issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner,
 - (ii) within three days of receipt of the waste for recovery, the facility shall send signed copies of the completed movement document, except for the certificate of recovery referred to in subpoint iii, to the notifier and the competent authorities concerned, and
 - (iii) as soon as possible but no later than 30 days after completion of recovery, and no later than one calendar year following the receipt of the waste the facility shall, under its responsibility, certify that the recovery has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.
- 4 The shipment may take place only if:
- a the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or, if tacit consent from the competent ^{F12}authority of destination in any non-EU country or tacit consent from the competent authority of transit in any country] is provided or can be assumed and if the conditions laid down are met;
 - b Article 35(4)(b), (c) and (d) is complied with.
- 5 If an export as described in paragraph 1 of waste listed in Annexes IV and IVA is in transit through a ^{F13}non-EU] country to which the OECD Decision does not apply, the following adaptations shall apply:
- a the competent authority of transit ^{F14}... shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and
 - b the competent authority of dispatch ^{F15}... shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from that competent authority of transit ^{F16}..., and not earlier than 61 days following the date of transmission of the acknowledgement of the competent authority of transit. The competent authority of dispatch may take the decision before the conclusion of the 61-day time limit if it has the written consent of the other competent authorities concerned.
- 6 ^{F17}Except where waste is destined for recovery in an EU country], it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.
- ^{F18}7 If a general customs official discovers an illegal shipment, the official shall without delay inform the relevant authority which shall—
- a where the dispatch of the waste was not in the area of the relevant authority, without delay inform the competent authority of dispatch; and

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- b ensure detention of the waste until the competent authority of dispatch has decided otherwise and, where the discovery is not in the area of the competent authority of dispatch, has communicated that decision in writing to the relevant authority.
- 8 In paragraph 7—
“general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009;
“relevant authority” has the meaning given in Article 35(7).
- 9 For the purposes of this Article, Liechtenstein shall be deemed to be a country to which the OECD Decision applies.]

Textual Amendments

- F2** Words in Art. 38(1) substituted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 38(1) substituted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 38(1) inserted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 38(1) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 38(2) substituted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in Art. 38(2)(a) inserted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 38(2)(c) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 38(3)(a)-(c) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 38(3)(d) substituted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 38(3)(e) inserted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 38(4)(a) substituted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Word in Art. 38(5) inserted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Art. 38(5)(a) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 38(5)(b) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(6)(e)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in Art. 38(5)(b) omitted (31.12.2020) by virtue of The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(6)(e)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 38(6) substituted (31.12.2020) by The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590), regs. 2(2), **77(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 1013/2006 of the European Parliament and of the Council, Section 2. (See end of Document for details)

F18 Art. 38(7)-(9) substituted for Art. 38(7) (31.12.2020) by [The International Waste Shipments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/590\)](#), regs. 2(2), **77(8)**; 2020 c. 1, Sch. 5 para. 1(1)

Textual Amendments

F1 Words in Title 4, [Ch. 2](#), s. 2 heading inserted (31.12.2020) by [The International Waste Shipments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/590\)](#), regs. 2(2), **76**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EC) No 1013/2006 of the European Parliament and of the Council, Section 2.