



# Fiche de procédure

Basic information		
SYN - Cooperation procedure (historic)	1995/0029(SYN)	Procedure completed
Waste: common rules to apply to shipments to non OECD countries		
Subject 3.70.12 Waste management, domestic waste, packaging, light industrial waste		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ENVI</b> Environment, Public Health and Consumer Protection	PPE <a href="#">VIRGIN Ivar</a>	09/10/1996
	Former committee responsible		
	<b>ENVI</b> Environment, Public Health and Consumer Protection	PPE <a href="#">VIRGIN Ivar</a>	09/10/1996
	Former committee for opinion		
	<b>RELA</b> External Economic Relations	V <a href="#">KREISSL-DÖRFLER Wolfgang</a>	17/03/1997
Council of the European Union	<b>JURI</b> Legal Affairs, Citizens' Rights		
	<b>DEVE</b> Development and Cooperation	V <a href="#">TELKÄMPER Wilfried</a>	15/04/1997
	Council configuration	Meeting	Date
	Industry	<a href="#">2174</a>	29/04/1999
	Social Affairs	<a href="#">2102</a>	04/06/1998
	<a href="#">Environment</a>	<a href="#">2062</a>	16/12/1997
	<a href="#">Environment</a>	<a href="#">1978</a>	09/12/1996

Key events			
06/02/1995	Additional information		Summary
08/02/1995	Legislative proposal published	COM(1994)0678	Summary
09/12/1996	Debate in Council	<a href="#">1978</a>	
19/02/1997	Committee referral announced in Parliament		
02/07/1997	Vote in committee		Summary

02/07/1997	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0241/1997</a>	
16/07/1997	Debate in Parliament		Summary
17/07/1997	Decision by Parliament	T4-0388/1997	Summary
04/06/1998	Council position published	<a href="#">05474/2/1998</a>	Summary
22/10/1998	Committee referral announced in Parliament, 2nd reading		
05/01/1999	Vote in committee, 2nd reading		Summary
05/01/1999	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0001/1999</a>	
08/02/1999	Debate in Parliament		
09/02/1999	Decision by Parliament, 2nd reading	T4-0081/1999	Summary
13/04/1999	Modified legislative proposal published	COM(1999)0150	Summary
29/04/1999	Act adopted by Council after consultation of Parliament		
29/04/1999	End of procedure in Parliament		
01/07/1999	Final act published in Official Journal		

### Technical information

Procedure reference	1995/0029(SYN)
Procedure type	SYN - Cooperation procedure (historic)
Procedure subtype	Legislation
Legal basis	EC before Amsterdam E 130S; EC before Amsterdam E 113
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/4/10198

### Documentation gateway

Legislative proposal		COM(1994)0678	08/02/1995	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A4-0241/1997</a> <a href="#">OJ C 286 22.09.1997, p. 0007</a>	02/07/1997	EP	
Text adopted by Parliament, 1st reading/single reading		T4-0388/1997 <a href="#">OJ C 286 22.09.1997, p. 0180-0229</a>	17/07/1997	EP	Summary
Economic and Social Committee: opinion, report		<a href="#">CES0640/1998</a> <a href="#">OJ C 214 10.07.1998, p. 0074</a>	29/04/1998	ESC	
Council position		<a href="#">05474/2/1998</a> <a href="#">OJ C 333 30.10.1998, p. 0001</a>	04/06/1998	CSL	Summary
Commission communication on Council's position		SEC(1998)1691	14/10/1998	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A4-0001/1999</a> <a href="#">OJ C 104 14.04.1999, p. 0005</a>	05/01/1999	EP	
Text adopted by Parliament, 2nd reading		T4-0081/1999 <a href="#">OJ C 150 28.05.1999, p.</a>	09/02/1999	EP	Summary

		<a href="#">0019-0076</a>			
Modified legislative proposal		COM(1999)0150	13/04/1999	EC	Summary
Final act					
<a href="#">Regulation 1999/1420</a> <a href="#">OJ L 166 01.07.1999, p. 0006</a> Summary					

## Waste: common rules to apply to shipments to non OECD countries

Regulation (EEC) 259/92, which entered into force on 6 May 1994, established a system for the supervision and control of shipments of waste within, into and out of the Community. This Regulation distinguished between waste that was to be disposed of once and for all (fill, incineration, etc.) and waste that was to be recovered (recycling, production of energy). With regard to waste that was to be recovered, the Regulation distinguished further between: - waste on the 'green' list, listed in Annex II to the Regulation; - waste on the 'orange' list (Annex III to the Regulation); - waste on the 'red' list (Annex IV to the Regulation); - waste not yet classified. This proposal only related to shipments from the Community to third countries of waste on the 'green' list to be recovered.

## Waste: common rules to apply to shipments to non OECD countries

OBJECTIVE: to establish common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste.  
 CONTENT: the Commission proposes that the Council adopt this proposal for a regulation establishing common rules and procedures to apply to: a) countries which do not wish to accept shipments of "green list" waste from the Community for processing: a number of countries have indicated that they do not wish to accept some or all of the waste on the "green list" in Annex II to Regulation (EEC) No 259/93. The Commission proposal consists of applying the "red list" procedure to shipments of this waste to the countries in question, once it has been revised. In all events, the "red list" procedure will have the same practical effect as a ban on exports while maintaining a degree of flexibility; b) countries which have not replied to the Commission's notes: Regulation (EEC) No 259/93 establishes the general principle whereby exports of waste on the "green list" for the purpose of processing are considered as normal commercial operations unless the country of destination wishes otherwise. Consequently, countries which have not replied to the notes sent to them by the Commission on the subject should continue to be treated in accordance with this general principle, to which a system of automatic prior export licences could be added. The proposal also defines a simplified amendment procedure which would allow the Commission to decide, in consultation with the relevant committee, to amend the control procedure applicable to one or more countries covered by it.

## Waste: common rules to apply to shipments to non OECD countries

The European Commission has been accused of demonstrating a "patronizing attitude" because it refuses to accept the decision by certain third countries not to authorize imports of Community waste. This accusation was levied by Mr Ivar VIRGIN (PPE, S), whose report on the subject was adopted. In Mr Virgin's words: "When the national authorities replied that they did not wish to import any category or certain categories of waste for recycling, one might be forgiven for thinking that they knew what they were doing." This report under the cooperation procedure relates to a proposal for a regulation on the shipment of waste to certain non-members of the OECD. The Commission is accused of acting in a patronizing manner. The MEPs threw out the Commission proposal which stated that, "...as for the countries which replied [to the Commission's questions] that they do not wish to take some or all of the waste..., it may be that they do not realize the full import of their reply for the industrial sector". The committee considered that the Community should respect the wishes of the countries and ban the exports in question. The Commission, which feared "an undesirable and adverse impact on trade between the Community and these countries" had proposed to allow these exports to continue subject to strict conditions and the authorization of the national authorities in question for each particular shipment. It only intends to accept two of the ten amendments adopted by the committee.

## Waste: common rules to apply to shipments to non OECD countries

Commissioner Brittan denied that the Commission had adopted a paternalistic attitude with regard to certain non-OECD countries which had refused to accept the import of Community waste. As for the 30 countries which had not yet replied to the questionnaire sent to them by the Commission, Mr Brittan said that the export of waste would be possible only on the basis of explicit approval for the shipment in question. However, he rejected Amendments Nos 3 and 6 on countries that had not replied to the questionnaire as any more restrictive prohibition would penalise legitimate and laudable transactions, for example used clothing from Oxfam. However, he could accept seven out of the ten amendments tabled: namely Amendments Nos 2, 4, 5, 7, 8, 9 and 10.

## Waste: common rules to apply to shipments to non OECD countries

In adopting the report by Mr Ivar VIRGIN (PPE,S), the European Parliament stated its view that the Community must respect the desire expressed by non-OECD countries not to receive 'Green List' waste (regarded as non-hazardous and intended for recycling) and consequently that the exports concerned should be banned. As regards those countries which had not yet replied to the notes sent by the Commission, Parliament considered that their attitude should be interpreted as meaning that they had no interest in importing such waste. The waste could

not, therefore, be exported to these countries. Parliament also considered that, in the case of countries which had replied that they did not wish to receive some or all of the waste listed in Annex II or countries which had not replied, the possibility existed that they might change their attitude or that they might reply in the future. A mechanism must therefore exist within a committee procedure to change the Regulation. As regards the legal basis, Parliament called for the proposal to be based on Articles 113 and 130s(1) of the EC Treaty rather than only on Article 113. ?

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## Waste: common rules to apply to shipments to non OECD countries

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The Council's common position is based to a very large extent on the modified proposal while confirming that Articles 113 and 130s of the EC Treaty together form the appropriate legal basis for the proposal for a regulation. The main changes to the text of the proposal are as follows: - the so-called 'red' list (Annex IV of Regulation 259/93) procedure proposed by the Commission appears to be needlessly cumbersome and the Council prefers to retain the more flexible procedure laid down in Article 15 of Regulation 259/93; - the Council has drawn up a list (new Annex C) of the wastes which may not be exported to ACP countries under Article 39 of the ACP-EC Convention; - a clear distinction has been made between: a) amendments of control procedures resulting from a change of position of a country of destination or from a change of circumstances affecting this country and review of Annexes A, B and C, in accordance with the (committee) procedure laid down in Article 18 of Directive 75/442/EEC; b) periodic review of the control procedure established by this Regulation, which may lead to new proposals to the Council; - the date of entry into force of this Regulation has been postponed (from 20 to 90 days following its publication in the Official Journal of the Communities); - annexes A and B may need to be further updated in view of future changes in the positions of countries of destination. ?

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## Waste: common rules to apply to shipments to non OECD countries

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The Commission can accept the common position as the proposal initially presented by the Commission and amended by the Council has been clarified. The stumbling block however is still the legal base (Articles 113 and 130s of the EC Treaty), while the Commission proposes Article 113 alone. The Commission would also have found it preferable to keep the 'red list' procedure rather than, as proposed by the Council, move to the procedure set out in Article 15 of Regulation 259/93/EEC which provides for longer delays in replying to a notification. Similarly, the Commission considers that the inclusion of a new annex in the waste legislation is not desirable and could prove confusing. ?

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## Waste: common rules to apply to shipments to non OECD countries

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The Committee adopted the draft recommendation by Ivar VIRGIN (EPP, Sw) on the common position by the Council on establishing common rules and procedures for shipments to certain non-OECD countries of certain types of waste. Of Parliament's ten amendments from first reading, the Council had incorporated six amendments in the common position. The rapporteur took the view that a new annex C proposed by the Council should be deleted as the ban on exports of the types of waste listed were already covered by present lists of waste (Annex VIII of the Basel Convention) and that yet another list complicated what was already complex legislation. Charity organisations had expressed concern that the Regulation might make it more difficult or impossible to export secondhand clothes for further use to third countries. Mr VIRGIN stressed therefore that neither this Regulation nor Regulation EEC 259/93 would create obstacles to exports of clothes for re-use as long as the exporter complied with the national rules of the importing country. The rapporteur also urged the Commission to review the waste definitions relating to the export of clothes for re-use in order to avoid any future misunderstanding. ?

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At second reading under cooperation procedure, the decision on common position 48/98/EC adopted by the Council with a view to adopting a Council Regulation establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste was approved by the European Parliament. This recommendation by Ivar Virgin (PPE,SE) amends the common position in the following areas: - requiring the Commission to regularly provide the countries covered with information on changes to Annexes A and B; - deletion of all reference to Annex C (the Green List, as set out by the Basel Convention) and of the Annex itself; - requiring the Commission to cooperate with the country concerned when determining which of the control procedures shall apply; - specifying that periodic review of the proposed directive should occur for the first time no later than nine months after publication instead of by 31/12/98; - requiring any new proposals in the light of such a review to be made to the European Parliament as well as to the Council; - requiring the Commission, in accordance with Article 18 of Directive 75/442/EEC, to review and amend the proposed regulation as soon as possible to bring it into line with Regulation 259/93/EEC (and particularly Annex V), as modified by Regulation 120/97/EC.?

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## Waste: common rules to apply to shipments to non OECD countries

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The Commission's re-examined proposal integrates a certain number of amendments approved by the European Parliament in its second reading, in particular that requiring that the Commission keeps the countries covered by the Regulation regularly informed of any changes made to Annexes A and B. The Commission accepts the amendment concerning the change of deadline applicable to the regular re-examination. However, it did not support the proposal seeking that the Parliament in the framework of the re-examination process should be consulted, because it continues to favour Article 113 as the sole legal base.?

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PURPOSE: to introduce, at Community level, a system permitting the regulation of trade in certain types of waste from the Community,

defining appropriate common rules and procedures regarding their export. COMMUNITY MEASURE: Council Regulation 1420/1999/EC laying down common rules and procedures applicable to the transfer of certain types of wastes to certain countries that are not members of the OECD. CONTENT: the Regulation lays down the procedures to be applied with respect to non-OECD member countries which either have indicated that they do not wish to receive for processing certain types of wastes that are on the 'green list' of Regulation 259/93/EEC, or have not responded to the Commission's notes regarding transfers of wastes on the 'green list' for processing. ENTRY INTO FORCE: 01/10/1999.?