



EUROPEAN
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Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, at the Eleventh Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, with regard to amendments to the list of waste contained in Annex IX (List B) of this Convention

EXPLANATORY MEMORANDUM

1. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done on 22 March 1989 (the "Basel Convention"), establishes a control procedure for the export and import of hazardous wastes between Parties. The Convention entered into force in 1992 and now binds 175 Parties. The EU is a Party to the Basel Convention.
2. The procedure for amending annexes of the Basel Convention is governed by Articles 17 and 18 of the Convention. Any proposed amendment must be made by a Party and communicated by the Secretariat to all Parties at least six months before the meeting at which it is proposed for adoption. Any such amendment must be adopted at a meeting of the Conference of the Parties and may become effective six months from the date of issuance of a circular notification by the Depositary.
3. Annex IX to the Basel Convention contains a list of waste. The waste listed will not be covered by Article 1, paragraph 1(a) of the Convention and thus not considered as "hazardous waste" for the purposes of the Convention, unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic. Annex I lists categories of waste to be controlled (waste streams) and constituents of waste. Annex III contains a list of hazardous characteristics.

The following five applications for new entries in Annex IX (List B) to the Basel Convention were submitted in January and February 2011:

- (a) Non-separable plastic fraction from the pre-treatment of used liquid packages;
 - (b) Pressure sensitive adhesive label laminate waste containing raw materials used in label material production not covered by entry B3020 in Annex IX;
 - (c) Non-separable plastic-aluminium fraction from the pre-treatment of used liquid packages;
 - (d) Clean biodegradable waste from agriculture, horticulture, forestry, gardens, parks and cemeteries;
 - (e) Composite packaging consisting of mainly paper and some plastic, not containing residues and not covered by entry B3020 in Annex IX.
4. The above waste entries were added to Annex IIIB of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste¹, on a provisional basis pending a decision on their inclusion in Annex IX (List B) to the Basel Convention. This decision was adopted by Commission Regulation (EU) No 135/2012 amending Regulation (EC) No 1013/2006 to include certain unclassified wastes in Annex IIIB thereto².
 5. The Open-ended Working Group (OEWG) at its eighth meeting on 25-28 September 2012 took note of the proposed amendments. Following discussions on these proposals, the OEWG, in paragraph 2 of its decision OEWG-8/6, agreed to forward to the Conference of the Parties to the Basel Convention for consideration at its Eleventh Meeting in May 2013 (COP-11) the following draft entry to Annex IX of the Convention:

¹ OJ L 190, 12.7.2006, p.1

² OJ L 46, 17.2.2012, p.30.

"B3075 Natural plant-based biomass waste from agriculture, horticulture, forestry, gardens, parks and cemeteries, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics and not containing invasive species".

In paragraph 3 of decision OEWG-8/6, the OEWG also took note of the following possible alternative draft entry to Annex IX to the Convention, to be considered by COP-11, in which four of the proposals may be merged, while noting that the proposed amendment on label laminate waste may or may not be integrated:

"B3025 Composite packaging consisting [mainly] of paper, plastic and aluminium [and fractions containing these materials] from the pre-treatment of such packaging [, including [pressure sensitive adhesive] label laminate waste], not containing residues and not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics".

6. COP-11 may decide to include in Annex IX (List B) to the Convention, any of the waste entries proposed in the above applications, or any of the waste entries forwarded by the Open-ended Working Group (OEWG) at its eighth meeting, or any of the above entries containing modifications.

Proposal for a

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on the position to be adopted, on behalf of the European Union, at the Eleventh Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, with regard to amendments to the list of waste contained in Annex IX (List B) of this Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 191(1), in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal entered into force in 1992.
- (2) Pursuant to Articles 17 and 18 of the Basel Convention, amendments to this Convention shall be adopted at a meeting of the Conference of the Parties.
- (3) Five applications for new waste entries in Annex IX (List B) to the Convention were submitted in January and February 2011. These entries have been added, on a provisional basis pending a decision on their inclusion in Annex IX (List B) to the Convention to Annex IIIB of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste³ by Commission Regulation (EU) No 135/2012 amending Regulation (EC) No 1013/2006 to include certain unclassified wastes in Annex IIIB thereto⁴.
- (4) Having taken note of the submitted proposals, the Open-ended Working Group (OEWG) at its eighth meeting on 25-28 September 2012 agreed to forward to the Conference of the Parties to the Basel Convention for consideration at its Eleventh Meeting two draft entries to Annex IX of the Convention.
- (5) The Eleventh Conference of the Parties to the Basel Convention may decide to include in Annex IX (List B) to the Convention, any of the waste entries proposed in the applications, or any of the waste entries forwarded by the Open-ended Working Group (OEWG) at its eighth meeting, or any of the above entries containing modifications.

³ OJ L 190, 12.7.2006, p.1

⁴ OJ L 46, 17.2.2012, p.30.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union at the Eleventh Conference of the Parties to the Basel Convention shall be to include in Annex IX (List B) to the Convention any of the waste entries as proposed in the applications submitted, or any of the waste entries forwarded by the Open-ended Working Group (OEWG) at its eighth meeting, or any of the above entries containing appropriate modifications.

Minor changes to this position may be agreed to by the representatives of the Union at the Eleventh Conference of the Parties to the Basel Convention without further decision by the Council.

Article 2

After its adoption, the Decision of the Eleventh Conference of the Parties to the Basel Convention as regards the amendments of Annex IX (list B) to the Convention shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter into force on [...].

Done at Brussels,

For the Council
The President