

COUNCIL DECISION (EU) 2023/1007**of 25 April 2023****on the position to be taken on behalf of the European Union at the sixteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal with regard to certain amendments of Articles and Annexes in that Convention**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(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 ⁽¹⁾ (‘the Convention’) entered into force in 1992 and was concluded on behalf of the Union by Council Decision 93/98/EEC ⁽²⁾.
- (2) In accordance with the Convention, the Conference of the Parties is to consider and adopt, as required, amendments to the Convention and its Annexes.
- (3) The Conference of the Parties, during its fifteenth meeting in June 2022, considered a proposal for amendments of Article 6(2) of the Convention submitted by the Russian Federation. That proposal aims to establish a 30 day time limit for State of import to respond to the notifier of a shipment of waste and includes one other change which is presented as being editorial. The Conference of the Parties decided to defer consideration of this proposal to the next meeting of the Conference of the Parties.
- (4) A proposal to amend Annex IV and certain entries in Annexes II and IX to the Convention was also submitted on the Union’s behalf and discussed by the Conference of the Parties, during its fifteenth meeting. The proposal aims, inter alia, to amend and to clarify the descriptions of disposal operations listed in Annex IV to the Convention and, in particular, to: include a general introduction clearly distinguishing the terms ‘non-recovery’ and ‘recovery’; include captions and introductory texts that explain the meaning of ‘non-recovery operations’ (Annex IV, Section A) and ‘recovery operations’ (Annex IV, Section B); clarify that all disposal operations that occur or might occur in practice are covered regardless of their legal status and regardless of whether they are considered to be environmentally sound, and that operations that occur prior to the submission to other operations are also covered; update and clarify the descriptions of operations in line with scientific, technical and other developments which have occurred since the Convention was adopted in 1989; and ensure, through the introduction of catch-all provisions, that all operations not specifically mentioned are covered by the Convention’s requirements. The Conference of the Parties decided to further consider this proposal at the next meeting of the Conference of the Parties.
- (5) With regard to the proposal for amendments of Article 6(2) of the Convention submitted by the Russian Federation, the Union should not support it, since the amendments would not help to address the problems that the Union considers as priorities for the functioning of the procedure of ‘prior informed consent’ of the Convention. In addition, amendments to the body of the Convention text require a long and arduous process in order to enter into force and it seems disproportionate to launch such a procedure for an amendment that offers little to no added value.

⁽¹⁾ OJ L 39, 16.2.1993, p. 3.

⁽²⁾ Council Decision 93/98/EEC of 1 February 1993 on the conclusion, on behalf of the Community, of the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention) (OJ L 39, 16.2.1993, p. 1).

- (6) With regard to the proposal to amend Annex IV and certain entries in Annexes II and IX, the Union should continue to support its adoption. With a view to gathering consensus on this proposal, the Union could display flexibility, in particular with regard to the proposed measures that are unlikely to gather sufficient support for their adoption at the sixteenth meeting of the Conference of Parties. This includes, for example, deferring the discussion on contentious topics (such as preparing for reuse and catch-all operations), seeking an agreement on the remaining aspects of the proposal and supporting possible amendments by other Parties, provided that they could achieve the same objectives as those behind the Union's proposals concerning Annex IV to the Convention.
- (7) It is appropriate to establish the position to be taken on the Union's behalf at the sixteenth meeting of the Conference of the Parties with regard to those proposals, as the envisaged acts, if adopted, would be amendments to both the text and the Annexes to the Convention and would, thus, be binding on the Union and affect the content of Union law, namely Directive 2008/98/EC of the European Parliament and of the Council ⁽³⁾, and Regulation (EC) No 1013/2006 of the European Parliament and of the Council ⁽⁴⁾,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the sixteenth meetings of the Conference of the Parties to the Basel Convention shall be the following:

- (a) the Union shall not support the proposal for amendments to Article 6(2) of the Convention, as submitted by the Russian Federation;
- (b) the Union shall continue to support the adoption of amendments to Annex IV and certain entries in Annexes II and IX of the Convention. If needed in order to ensure that a consensus is found on an amendment of Annex IV to the Convention, the Union may show flexibility and agree to depart from the proposal that it submitted for consideration at the fifteenth meeting of the Conference of the Parties, and support other possible changes that could achieve the same objectives as those that underpin the Union's proposals concerning Annex IV to the Convention, and that do not undermine the Union's legal regime on the management and shipment of waste.

Article 2

Refinement of the position referred to in Article 1 point (b), in light of developments at the sixteenth meeting of the Conference of the Parties, may be agreed upon by representatives of the Union, in consultation with the Member States, during on-the-spot coordination meetings, without further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 25 April 2023.

For the Council
The President
P. KULLGREN

⁽³⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

⁽⁴⁾ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).