

## **CORRESPONDENTS' GUIDELINES No 10**

### **Subject: Shipments of waste pursuant to Article 18 of Regulation (EC) No 1013/2006 on shipments of waste**

1. These correspondents' guidelines represent the common understanding of all Member States on how Regulation (EC) No 1013/2006 on shipments of waste (Waste Shipment Regulation – WSR) should be interpreted. The guidelines were agreed by the correspondents through written procedure on 12 May 2017. They are not legally binding. The binding interpretation of European Union law is an exclusive competence of the Court of Justice of the European Union (CJEU). The guidelines apply from 12 July 2017 and should be reviewed at the latest five years from the above date and, if necessary, revised.

#### **1. Introduction**

2. These correspondents' guidelines provide information for:

- (a) Persons arranging shipments of waste that are subject to the general information requirements of Article 18 of the WSR;
- (b) Other persons or parties involved in the use of Annex VII to the WSR, such as waste producers, collectors, dealers, brokers, waste carriers, consignees, recovery facilities and laboratories, and
- (c) Authorities responsible for the enforcement of the WSR.

#### **2. The application of Article 18 and the use of Annex VII**

##### **2.1 Instructions for completing the Annex VII document**

3. *There is a need for further guidance on how to complete the Annex VII document in addition to the reference to the specific instructions for completing the notification and movement documents contained in Annex IC to the WSR (see Annex VII, footnote 1, 2<sup>nd</sup> sentence). A Union-wide approach is needed in order to ensure that the Annex VII document is completed in the same way.*

4. *As a common understanding of the correspondents, it has been agreed that the instructions provided in Appendix 1 to these guidelines should be used for completing the Annex VII document.*

##### **2.2 Person who arranges shipment pursuant to Article 18(1)(a)**

5. *There is a need for guidance on which persons may act as "the person under the jurisdiction of the country of dispatch who arranges the shipment" pursuant to Article 18(1)(a).*

6. *As a common understanding of the correspondents, it has been agreed that the person who arranges the shipment may only be a natural or legal person under the jurisdiction of the country of dispatch, including*

- (a) the original producer,
- (b) the licensed new producer who carries out operations prior to shipment,
- (c) a licensed collector who assembled the shipment from various small quantities of the same type of waste collected from a variety of sources,

- (d) a registered 'dealer' who has been authorised in writing by the original producer, new producer or licensed collector specified in (a), (b) and (c) to act on his/her behalf as the person who arranges the shipment,
- (e) a registered 'broker' who has been authorised in writing by the original producer, new producer or licensed collector specified in (a), (b) and (c) to act on his/her behalf as the person who arranges the shipment, or
- (f) the holder of the waste where all of the persons above are unknown or insolvent.

7. *There is a need for guidance on how to interpret "under the jurisdiction of the country of dispatch".*

8. *As a common understanding of the correspondents*, it has been agreed that it is up to the authorities of the country of dispatch to define the conditions upon which a person arranging a shipment of waste falls "under the jurisdiction of the country of dispatch". Once these conditions are fulfilled in the country of dispatch, all relevant parties concerned, including the authorities of the countries of transit and destination are to accept that the person arranging a shipment of waste is under the jurisdiction of the country of dispatch. In case Member States have laid down respective provisions on such conditions in their national legislation, or take measures in individual cases, these measures must comply with the Treaties' provisions<sup>1</sup>, including conformity with the principles of necessity and proportionality in the interpretation given in applicable rulings of the CJEU.

### **2.3 Contract pursuant to Article 18 (2)**

9. *There is a need for guidance on how the contract referred to in Article 18(2) should be worded and whether the contract may cover more than one shipment*<sup>2</sup>.

10. *As a common understanding of the correspondents*, it has been agreed that the information in the contract should be consistent with that provided in the corresponding Annex VII document(s), whereby at least information related to the person who arranges the shipment and the consignee (blocks 1 and 2) as well as to one or more wastes (blocks 9 and 10) and the recovery operation(s) corresponding to each waste should be included in the contract<sup>3</sup>. An example template for such a contract is provided in Appendix 2.

11. *As a common understanding of the correspondents*, it has been agreed that more than one Annex VII document may correspond to a single contract.

### **2.4 Illegal shipments pursuant to Article 2(35)(g)(iii) and take back of waste**

12. *There is a need for guidance on how to interpret the text "not specified materially in the document set out in Annex VII" in Article 2(35)(g)(iii).*

13. *As a common understanding of the correspondents*, it has been agreed that "not specified materially in the Annex VII document" means that the document is missing, or that important information in this document is missing, including the signature in block 12, or is not correct. Each case should be judged on its own merits in terms of the severity of penalties which should always remain proportionate.

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<sup>1</sup> Treaty on European Union and the Treaty on the Functioning of the European Union

<sup>2</sup> The WSR does not require for the contract to accompany a shipment of waste under Article 18.

<sup>3</sup> In each Annex VII document corresponding to a contract, only one recovery operation is to be indicated according to Appendix I, paragraph 16.

14. *There is a need for guidance on whether in case of a take-back of waste in accordance with Article 18(2) where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment according to Article 2(35)(g)(iii), a new Annex VII document should be completed and if so, by whom.*

15. *As a common understanding of the correspondents, it has been agreed that in the case of take-back of waste pursuant to Article 18(2) where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment according to Article 2(35)(g)(iii), the person who had arranged the original shipment or, where that person is not in a position to do so (for example, is insolvent), the consignee should complete any new Annex VII document<sup>4, 5</sup>.*

## **2.5 Case of shipment consisting of several transport units**

16. *There is a need for guidance on how the obligation in Article 18(1) that the waste is accompanied by the document contained in Annex VII during the transport applies to a consignment consisting of several individually packaged transport units.*

17. *As a common understanding of the correspondents, it has been agreed that in case of a consignment consisting of several individually packaged transport units (examples of such units are drums, wooden barrels, jerricans, boxes, bags<sup>6</sup> and containers), one Annex VII document may be used for all the units in the consignment under the condition that the information in the accompanying Annex VII document is descriptive for the whole consignment<sup>7, 8</sup>. Examples of a consignment consisting of several individual transport units may be two or more drums, two or more wooden barrels, two or more jerricans, two or more boxes, two or more bags, or two or more containers loaded with the same type of waste and carried (i) by a truck, (ii) by a truck and a trailer attached to this truck, (iii) by one or more railway carriages of the same train, (iv) by a barge, or (v) by a barge and a trailer attached to this barge.*

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<sup>4</sup> In case of illegal shipments, see also Article 24, in particular Article 24(9).

<sup>5</sup> The instructions provided in Appendix 1 are not fully applicable for the case of take-back.

<sup>6</sup> See packaging types according to Annexes IA and IB.

<sup>7</sup> Competent authorities in Member States may require a separate Annex VII document in certain cases, for example, (i) for each unit, (ii) for a trailer or railway carriage.

<sup>8</sup> Where it is impractical that an original Annex VII document accompanies the consignment, competent authorities in the Member States may accept e.g. a copy or fax to accompany the consignment.

## Instructions for completing the Annex VII document

### **I. Introduction and purpose of the Annex VII document**

1. The present instructions provide the necessary explanations for completing the Annex VII document. The Annex VII document is intended to accompany a shipment of waste at all times<sup>9</sup> from the moment the shipment starts in the country of dispatch to its arrival at a recovery facility or laboratory in another country. The present instructions are applicable to shipments of waste as long as the waste shipped is located within the European Union, i.e. the Annex VII document relates to waste shipments within the EU, and from, into or through the EU. Relevant parties involved in the shipment (the person who arranges the shipment, carriers, the consignee where applicable, and the relevant recovery facility or laboratory) are to sign the document either upon delivery or receipt of the waste concerned.

### **II. General requirements**

2. A planned shipment subject to Article 18 may take place only after the Annex VII document has been fully completed pursuant to this Regulation<sup>10</sup>.

3. The Annex VII document should be completed either in typed format or by using capital letters in permanent ink throughout. Signatures should always be written in permanent ink and the name of the authorised representative should accompany the signature in capital letters. In the event of a minor mistake, a correction can be made by the person who arranges the shipment. The correction should be marked and signed or stamped, and the date of the modification noted. For major changes or corrections, a new document should be completed.

4. The Annex VII document has also been designed to be easily completed electronically. In such cases, appropriate security measures should be taken to prevent any misuse of the document, such as converting into an unalterable electronic format. Any changes made to a completed document should be visible. An Annex VII document may accompany the transport in an electronic form with a digital signature, if it can be read at any time during the transport and if this is acceptable to the competent authorities concerned.

5. To simplify translation, a code rather than text is required for the completion of some blocks. Where text is required, however, it should be in a language acceptable to the authorities of all countries involved<sup>11</sup>.

6. A six-digit format should be used to indicate the date. For example, 29 January 2017 should be shown as 29.01.17 (Day.Month.Year).

7. Where annexes providing additional information are attached to the Annex VII document, these should include clear references (e.g. enumerated references) pointing to the relevant parts of the Annex VII document as well as a citation of the block(s) to which they relate.

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<sup>9</sup> The person arranging the shipment is to ensure that the shipment is accompanied by the Annex VII document.

<sup>10</sup> It is noted that, according to paragraph 13 of the present Correspondents' guidelines, there may be an illegal shipment pursuant to Article 2(35)(g)(iii) of Regulation (EC) No 1013/2006 on shipments of waste if the Annex VII document is missing or if important information in this document is missing, including the signature in block 12, or is not correct.

<sup>11</sup> See Article 27 of Regulation (EC) No 1013/2006 on shipments of waste.

### **III. Specific instructions for completing the Annex VII document**

8. Before the actual start of the shipment, the person who arranges the shipment or its representative<sup>12</sup> is to complete blocks 1 to 12 and sign block 12, with the exception of block 5. At the time of taking possession of the consignment, the respective carrier or its representative<sup>13</sup> is to complete block 5. The consignee is to complete and sign block 13 in the event that this is not the recovery facility or the laboratory and when it takes charge of a shipment of waste after it arrives in the country of destination. The recovery facility or the laboratory is to complete block 14 after receipt of the waste.

**9. Block 1:** Provide the name, address and all other required details of the person who arranges the shipment. The address should include the name of the country and telephone and fax numbers including the country code. Provide the phone and fax numbers and the e-mail address which should facilitate the contact of all relevant persons regarding an incident during the shipment. If a fax number cannot be provided write N/A. Where the person who arranges the shipment is a legal person such as a company, the name of the company should be filled-in under "Name" and information of an authorised person who can give additional information if needed should be added under "Contact person". The contact person should be responsible for the shipment including any incidents that may occur during the shipment. In case the person who arranges the shipment is a natural person, no contact person may need to be added.

**10. Block 2:** Provide the required information. Normally, the consignee would be the recovery facility or laboratory given in block 7. In some cases, however, the consignee may be another person, for example a dealer, a broker, or a corporate body, such as the headquarters or a mailing address of the receiving recovery facility in block 7. In order to act as a consignee, a dealer, broker or corporate body must be under the jurisdiction of the country of destination and possess or have some other form of legal control over the waste at the moment the shipment arrives in the country of destination<sup>14</sup>. The country appearing in the address of this block should be the same as that of block 7.

**11. Block 3:** Give the actual weight of the waste in tonnes (1 tonne equals 1 megagram (Mg) or 1000 kg.

**12. Block 4:** Enter the date when the shipment actually starts.

**13. Block 5 (a-c):** The information and signature required in block 5 should be provided by each carrier or carrier's representative when taking possession of the consignment. The address should include the name of the country, and telephone and fax numbers should include the country code. If a fax number cannot be provided write N/A. When more than three carriers are involved, appropriate information on each carrier should be attached to the Annex VII document.

**14. Block 6:** Provide the name, address and all other required information of the "waste generator"<sup>15</sup>. If the waste generator is the same as the person who arranges the shipment, then

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<sup>12</sup> A "representative" is a person employed and authorised in writing by the person who arranges the shipment.

<sup>13</sup> A "representative" is a person employed and authorised in writing by the carrier.

<sup>14</sup> Some Member States have a stricter approach as to when such other person may act as consignee, for example that the consignee must have physical control over the waste at the moment the shipment arrives in the country of destination. See also the reply to question 5.2 in the Frequently Asked Questions (FAQs) on Regulation (EC) No 1013/2006 on shipments of waste (available at <http://ec.europa.eu/environment/waste/shipments/pdf/faq.pdf>).

<sup>15</sup> As regards the completion of this block, see the Court judgement on Case C-1/11 (see: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=121166&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=839361>).

write "Same as block 1". If the waste has been produced by more than one generator, write "See attached list" and append a list providing the requested information for each generator (see footnote 3 of the Annex VII document). A "waste generator" may include the original producer, a new producer or a licenced waste collector. In case the generator is unknown, the name of the person in possession or control of such waste (holder) should be provided.

**15. Block 7:** Provide the name, address and all other required information (give destination of the shipment by ticking either recovery facility or laboratory). The address should be the actual address (i.e. no P.O.Box). The country appearing in the address of this block should be the same as that of block 2. If the recovery facility or laboratory is also the consignee, state here "Same as block 2".

**16. Block 8:** In case "Recovery facility" is ticked in block 7, indicate the type of recovery operation by using R-codes of Annex II to Directive 2008/98/EC on waste or, in case "Laboratory" is ticked in block 7, the type of recovery or disposal operation by using R-codes or D-codes of Annexes I and II to Directive 2008/98/EC on waste.

**17. Block 9:** Give the name or names by which the material is commonly known or the commercial name. In the case of a mixture of wastes listed in Annex IIIA to the WSR, provide the same information for the different fractions.

**18. Block 10:** Fill in the code or codes that identify the waste according to Annexes III, IIIA or IIIB to the WSR in the subheadings as indicated below. A code corresponding to one of the four following categories is to be specified in block 10:

- (a) *Subheading (i):* Basel code(s) from Basel Convention Annex IX which are listed in Part I of Annex III to the WSR should be provided (see also List B in Part 1 of Annex V to the WSR).
- (b) *Subheading (ii):* OECD codes should be used for wastes listed in Part II of Annex III to the WSR, i.e. wastes that have no equivalent listing in Annex IX to the Basel Convention or that have a different level of control under the WSR from the one required by the Basel Convention.
- (c) *Subheading (iii):* In case of mixtures of wastes listed in Annex IIIA to the WSR, provide the relevant code(s) as indicated in Annex IIIA as appropriate in sequence (cf. footnote 4 of Annex VII). Certain Basel entries such as B1100, B3010 and B3020 are restricted to particular waste streams only, as indicated in Annex IIIA.
- (d) *Subheading (iv):* In case of waste listed in Annex IIIB to the WSR, provide the BEU codes listed in Annex IIIB (cf. footnote 5 of Annex VII). These codes are only valid in the EU and are to be used for shipments within, into or through the EU.

In addition, a code corresponding to the following two categories should be specified in block 10:

- (a) *Subheading (v):* Provide the codes included in the European list of waste (see Commission Decision 2000/532/EC as amended)<sup>16</sup>.
- (b) *Subheadings (vi):* Where applicable, national identification codes (other than the codes of the European list of waste) used in the country of dispatch and, if known, in the country of destination should be provided.

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<sup>16</sup> See <http://ec.europa.eu/environment/waste/framework/list.htm> and <http://ec.europa.eu/environment/waste/legislation/a.htm>.

**19. Block 11:** Provide the name of the countries of dispatch, transit and destination or the codes for each country by using the ISO standard 3166 abbreviations<sup>17</sup>.

**20. Block 12:** At the time of shipment, the person who arranges the shipment or its representative<sup>18</sup> should fill in his/her name and sign and date the Annex VII document. In case the person who arranges the shipment is a legal person, its representative that signs block 12 may differ from its representative that signs the contract but they should sign on behalf of the same legal entity.

**21. Block 13:** This block is to be completed and signed by the consignee, shown in block 2 in case the consignee is neither the recovery facility nor the laboratory and in case the consignee takes charge of the waste after the shipment arrives in the country of destination.

**22. Block 14:** This block is to be completed and signed by a representative<sup>19</sup> of the recovery facility or the laboratory upon receipt of the waste consignment. Tick the box for either recovery facility or laboratory. Give the quantity of the waste received in tonnes (1 tonne equals 1 megagram (Mg) or 1000 kg).

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<sup>17</sup> See <https://www.iso.org/obp/ui/#search/code/>.

<sup>18</sup> A "representative" is a person employed and authorised in writing by the person who arranges the shipment.

<sup>19</sup> A "representative" is a person employed and authorised in writing by the recovery facility or the laboratory.

**Example template for the  
contract concluded according to Article 18 of Regulation (EC) No 1013/2006**

This appendix includes the following example template for the wording of the contract referred to in Article 18(2) and block 12 of Annex VII to the WSR providing information that is consistent with that provided in the Annex VII document:

**Contract for Shipments of Waste Subject to the Information Requirements of Article 18 of Regulation (EC) No 1013/2006 on Shipments of Waste**

**between**            **"The Person who arranges the shipment"**<sup>20</sup>  
                          *[company name]*  
                          *[contact information]*

**and**                    **"The Consignee"**  
                          *[company name]*  
                          *[contact information]*

**concerning shipments for recovery of the following waste(s) and the recovery operation(s) corresponding to each waste**<sup>21</sup>:

*[usual description(s) of the waste*<sup>22</sup>; *waste identification(s) according to box 10 of Annex VII*<sup>23</sup>; *operation(s) R...*<sup>24</sup>]

The parties to this agreement, being the Person who arranges the shipment and the Consignee, shall comply with the requirements of Regulation (EC) No 1013/2006 in respect of the shipment of waste referred to in Article 3(2) of this Regulation. Shipments shall be carried out in accordance with Article 18 and the information provided in the Annex VII document(s) and under the terms of this contract.

The Person who arranges the shipment agrees to deliver the waste to the Consignee and/or recovery facility for the recovery thereof and the Consignee agrees, in case it is also the recovery facility, to recover it according to Regulation (EC) No 1013/2006 on shipments of waste.

It is hereby agreed between the parties to this agreement that the following legal duties and obligations will be observed, as required by Regulation (EC) No 1013/2006:

- (a) The Person who arranges the shipment shall ensure that the waste is accompanied by an Annex VII document.
- (b) The Annex VII document(s) shall be signed by the Person who arranges the shipment before the shipment(s) start(s), and by the recovery facility and the Consignee when the waste is received.

<sup>20</sup> The person who arranges the shipment must fall under the jurisdiction of the country of dispatch.

<sup>21</sup> In case of multiple wastes, provide a list of the wastes with their corresponding recovery operation(s). In each Annex VII document corresponding to this contract, only one recovery operation is to be indicated according to Appendix I, paragraph 16.

<sup>22</sup> See paragraph 17 in Appendix 1.

<sup>23</sup> See paragraph 18 in Appendix 1.

<sup>24</sup> See paragraph 16 in Appendix 1.

- (c) This contract between the Person who arranges the shipment and the Consignee shall be effective when the shipment(s) start(s).
- (d) Where a shipment of waste or its recovery cannot be completed as intended, or where it has been effected as an illegal shipment, the Person who arranges the shipment or, where this person is not in a position to complete the shipment of waste or its recovery (for example, due to insolvency) the Consignee, shall take the waste back or ensure its recovery in an alternative way, and provide, if necessary, for its storage in the meantime.
- (e) This contract remains valid for the duration of the shipment(s) effected on the Annex VII document(s) until the recovery operation at the facility has been completed.
- (f) The Person who arranges the shipment or the Consignee shall provide a copy of the contract upon request by the authority involved in inspections.

**For the Person who arranges the shipment:**

Name and title: [*Name and title*] \_\_\_\_\_  
Date: [*Date of signature*] \_\_\_\_\_ Signature: \_\_\_\_\_

**For the Consignee:**

Name and title: [*Name and title*] \_\_\_\_\_  
Date: [*Date of signature*] \_\_\_\_\_ Signature: \_\_\_\_\_