



Decision-Recommendation of the
Council on Exports of Hazardous
Wastes from the OECD area

**OECD Legal
Instruments**

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

Please cite this document as:

OECD, *Decision-Recommendation of the Council on Exports of Hazardous Wastes from the OECD area*, OECD/LEGAL/0224

Series: OECD Legal Instruments

© OECD 2018

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: *"This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"*

Date(s)

Adopted on 05/06/1986
Amended on 12/07/2017

Background Information

The Decision-Recommendation on Exports of Hazardous Wastes from the OECD area was adopted by the OECD Council on 5 June 1986 on the proposal of the Environment Committee (now called Environment Policy Committee). The instrument sets requirements for Adherents to monitor and control hazardous waste exports to a final destination outside the OECD area and prohibits export of hazardous waste to non-OECD countries unless those countries have adequate disposal facilities.

THE COUNCIL,

HAVING REGARD to Articles 5 a) and 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Decision-Recommendation of the Council of 1 February 1984 on Transfrontier Movements of Hazardous Wastes [C(83)180(Final)] and without prejudice to that Decision-Recommendation;

HAVING REGARD to the Resolution of the Council of 20 June 1985 on International Co-operation concerning Transfrontier Movements of Hazardous Wastes [C(85)100] by which it has been decided to develop an international system for effective control of transfrontier movements of hazardous wastes, including an international agreement of a legally binding character;

CONSIDERING the European Communities Council Directive of 6 December 1984 on the Supervision and Control within the European Community of the Transfrontier Shipment of Hazardous Wastes [84/631/EEC] supplemented by the Decision of the Council of the European Communities of 6 March 1986;

CONSIDERING the work carried out within the United Nations Environment Programme on the environmentally sound management of hazardous wastes;

CONSIDERING the particular nature of wastes and the distinction between wastes and products which are traded internationally;

CONVINCED that the exports of hazardous wastes may, if not properly monitored and controlled, result in serious risks to health and the environment;

On the proposal of the Environment Policy Committee;

I. DECIDES that Member countries shall:

- i) Monitor and control exports of hazardous wastes to a final destination which is outside the OECD area; and for this purpose shall ensure that their competent authorities are empowered to prohibit such exports in appropriate instances;
- ii) Apply no less strict controls on transfrontier movements of hazardous wastes involving non-member countries than they would on movements involving only Member countries;
- iii) Prohibit movements of hazardous wastes to a final destination in a non-member country without the consent of that country and the prior notification to any transit countries of the proposed movements;
- iv) Prohibit movements of hazardous wastes to a non-member country unless the wastes are directed to an adequate disposal or recovery facility in that country.

II. RECOMMENDS that, to implement this Decision, Member countries should:

- i) Seek to conclude bilateral or multilateral agreements with nonmember countries to which frequent exports of hazardous wastes are taking place or are foreseen to take place;
- ii) Apply the measures set out below concerning the control of exports of hazardous wastes to a final destination outside the OECD area.

III. INSTRUCTS the Environment Policy Committee to take account of the elements of this Decision-Recommendation in developing the draft international agreement referred to in the Resolution of the Council on International Co-operation Concerning Transfrontier Movements of Hazardous Wastes [C(85)100].

MEASURES CONCERNING THE CONTROL OF EXPORTS OF HAZARDOUS WASTES

1. The following measures are designed to facilitate the harmonisation of policies concerning transfrontier movements of hazardous wastes to a final destination outside the OECD area. They do not prejudice the implementation of stricter measures which have been or might be adopted at national, regional or world level to reduce the dangers associated with the transport and disposal of hazardous wastes.

2. These measures should apply in the absence of a bilateral or multilateral agreement concerning transfrontier movements of hazardous wastes between the exporting Member country and the importing non-member country concerned, and should be taken into account in the negotiation of such an agreement.

3. Member countries should require, with respect to any export of hazardous wastes to a final destination outside the OECD area, that the measures set out below be taken by the exporter or by the competent authorities of the exporting country.

4. The exporter should:

- a) Provide the competent authorities of the importing country (and of any transit countries) with at least the same information that he would provide them if they were Member countries;
- b) Inform the competent authorities of the importing country of any specific disposal or recovery methods legally required or forbidden for such wastes in the exporting country;
- c) Provide to the competent authorities of the exporting country:
 - i) The information used by the exporter to assure himself that the proposed disposal or recovery operation can be performed in an environmentally sound manner;
 - ii) Certification that the proposed disposal facility may, under the laws and regulations of the importing country, dispose of the kinds of wastes whose export is proposed;
 - iii) A copy of an undertaking by the operator of the proposed disposal or recovery facility that he will dispose of the wastes as foreseen in the disposal contract, and in the facility specified therein;
 - iv) A copy of the information transmitted to the competent authorities of the importing country to obtain their written consent to the import and disposal of the wastes;
 - v) A copy of the written consent of the competent authorities of the importing country, and confirmation that the competent authorities of any transit countries have received delivery of notification;
- d) Demand and receive from the disposer or the recoverer documents confirming that the wastes have been handed over to the disposer or the recoverer and disposed of or recovered as foreseen, and put these documents at the disposition of the competent authorities of the exporting country.

5. Member countries may choose to charge their competent authorities instead of the exporter with some of the tasks listed above.

6. The competent authorities of the exporting country should:

- a) Before any final decision is taken, inform the competent authorities of the importing country when they have specific environmental concerns regarding the proposed disposal or recovery operation;
- b) Prohibit the export of the hazardous wastes whenever:
 - i) They are not satisfied with the information provided under 4 c) above;
 - ii) An objection is made by any country of transit and no appropriate alternative route can be found by the exporter;
 - iii) The proposed disposal or recovery operation is not in conformity with applicable international law;

- c) Prohibit additional exports of hazardous wastes to a given destination when the documents specified in 4 d) above were not provided to the exporter by the disposer or the recoverer after a previous export to the same destination;
- d) Notify the exporter promptly whether or not they object to the proposed transfrontier movement;
- e) Notify the competent authorities of the importing country if they have prohibited the export of the wastes.

Definitions

For the purpose of this Decision-Recommendation:

- a) "Waste" is defined in the Decision of the Council on the Control of Transboundary Movements of wastes destined for Recovery Operations [C(2001)107/FINAL];
- b) "Hazardous waste" is defined in the Decision of the Council on the Control of Transboundary Movements of wastes destined for Recovery Operations [C(2001)107/FINAL];
- c) "Transfrontier movement of hazardous wastes" means any shipment of wastes from one country to another, where the wastes are considered as being hazardous wastes in at least one of the countries concerned. Hazardous wastes arising from the normal operation of ships, including slops and residues, shall not be considered a transfrontier movement covered by this Decision-Recommendation;
- d) "Exporting country" means any country from which a transfrontier movement of hazardous wastes is initiated or is envisaged;
- e) "Importing country" means any country to which a transfrontier movement of hazardous wastes takes place or is envisaged for purpose of disposal (treatment, landfill, storage, dumping or incineration at sea);
- f) "Transit country" means any country other than the exporting or importing country across which a transfrontier movement of hazardous wastes takes place or is envisaged;
- g) "Exporter" means the generator of the wastes or the person in the exporting country who arranges for exporting the wastes at the request and on behalf of the generator;
- h) "OECD area" means all land or marine areas under the national jurisdiction of any OECD Member country;
- i) "Disposal" is defined in the Decision of the Council on the Control of Transboundary Movements of wastes destined for Recovery Operations [C(2001)107/FINAL];
- j) "Recovery" is defined in the Decision of the Council on the Control of Transboundary Movements of wastes destined for Recovery Operations [C(2001)107/FINAL].

Adherents*

OECD Members

Australia
Austria
Belgium
Canada
Chile
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Israel
Italy
Japan
Korea
Latvia
Luxembourg
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

Non-Members

* Additional information and statements are available in the Compendium of OECD Legal Instruments:
<http://legalinstruments.oecd.org>

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions:** OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.
- **Recommendations:** OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.
- **Declarations:** OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.
- **International Agreements:** OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.