OECD ADOPTS A CONTROL SYSTEM FOR TRANSFRONTIER MOVEMENTS OF RECYCLABLE WASTES

The OECD Council has adopted a Decision (*) establishing a control system for transfrontier movements among OECD Member countries of wastes destined for recovery operations. The Decision, adopted on 30th March 1992, draws a clear distinction between hazardous and non-hazardous wastes.

Wastes intended for recovery in authorized facilities, which do not exhibit any of the hazardous characteristics set out in the Basel Convention, and which meet a number of other criteria, are assigned to a "green list". Such wastes are allowed to move subject to those controls normally applied to normal goods in trade. Wastes which exhibit one or more of the hazardous characteristics are listed as "amber" or "red". In these cases, their transfrontier movements will be strictly controlled: there will be prior notification to all countries concerned by the movement and consent by these countries (which may be tacit for wastes on the amber list) prior to any shipment.

Nearly 200 million tonnes of wastes are crossing national borders of OECD countries each year, on their way to recovery operations. For OECD Europe only, this trade involves 140 million tonnes of wastes having a value of over $ 20 billion. It provides a significant raw materials input for a number of industries and many jobs depend upon these operations. Since the mid-1970s the OECD policy has been to promote waste recycling as one of the most appropriate means to save resources and minimize the total quantity of wastes to be disposed. This policy was reaffirmed by OECD Environment Ministers in January 1991.

Over the last few years, the OECD has also been instrumental in developing internationally-agreed principles on which the control of transfrontier movements of hazardous wastes would be based. Many of these principles were included in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which has been

(*) OECD Council Decisions are legally binding on Member countries, except those which abstain upon their adoption. Japan abstained in this case.

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signed by most OECD Member governments and will enter into force on 5th May 1992. It is significant that, of the total quantity of wastes traded for recovery operations among OECD countries in 1990, less than one percent was legally defined or considered to be "hazardous" under OECD country legislation.

The OECD Decision provides for a simplified means to control transfrontier movements of wastes destined for recovery operations which is environmentally sound within the OECD area, compatible with the Basel Convention, commercially viable and implementable. Wastes exported outside the OECD area, whether for recovery or final disposal, will not benefit from this simplified control procedure. Wastes intended for final disposal (as opposed to recovery operations), such as landfill or incineration, are governed by the OECD Council Decision of 31 January 1991 which calls on Member governments to dispose of these wastes insofar as possible in the country in which they have been generated.
FURTHER BACKGROUND INFORMATION

1. OECD Member countries are all striving to reduce consumption of raw materials, energy and releases of contaminants while still producing the goods and services needed by society. Unfortunately, no way exists to achieve one-hundred percent efficiency in processing materials and energy. Some wastes are inevitable. The near-term goals for society thus must be to reduce these wastes to some justifiable minimum value, and to ensure that wastes which are generated are managed so as to satisfactorily control any potential risks to man and/or the environment. One generally accepted way to help achieve the second goal is through resource recovery, recycling, reclamation, direct re-use or alternative uses (referred to as "recovery operations") of wastes which otherwise would have been destined for final disposal.

2. On 31 January 1991 the Environment Ministers of the OECD and the European Community Environment Commissioner endorsed - and the OECD Council subsequently enacted - a "Decision-Recommendation on the Reduction of Transfrontier Movements of Wastes" [C(90)178(Final)]. This Act is applicable to all wastes subject to controls under terms of the Basel Convention of 22nd March 1989, and all other wastes subject to transfrontier movements control of the exporting and importing Member countries. The Act establishes a distinction between wastes destined for recovery operations and wastes destined for final disposal. It legally binds Member countries to take steps to keep their wastes "at home", for wastes not to be subjected to recovery operations.

3. When adopting this Decision-Recommendation on 31 January 1991, the OECD Environment Ministers and the OECD Council stated that the basic principles for the management of wastes must be, first, to prevent and reduce, as far as possible the generation of such wastes; and, second, to increase the proportion of these wastes subjected to recovery operations. The Ministers and the Council noted that many industrial sectors are already implementing waste recovery operations in an economically and environmentally satisfactory fashion but that further efforts in this direction are necessary and should be encouraged. The Ministers and the Council recognized that efficient and environmentally sound management of wastes may justify some transfrontier movements of such wastes in order to make use of adequate facilities for recovery operations in other countries.

4. To permit such movements in a practicable yet environmentally sound manner, Council Decision-Recommendation C(90)178/FINAL of 31 January 1991 instructed the OECD Environment Committee, inter alia, "to ... characterize those wastes which may require differing levels of control ..." and "... to delineate such controls as may be appropriate for the transfrontier movements of waste materials destined for recovery operations". The Decision establishing a control system for recyclable wastes, adopted by the OECD Council on 30 March 1992, represents the efforts of the Environment Committee and its Waste Management Policy Group to respond to these instructions.

5. This latest Decision is meant to designate clearly, and uniformly across the OECD, those wastes destined for recovery operations following transfrontier movement among OECD countries which do not exhibit hazardous characteristics as delineated by Annex III of the Basel Convention, and which will therefore not be subject to the control system for hazardous wastes by
OECD countries under this Convention. Such wastes constitute the "green" list. On the other hand, those wastes which are delineated as hazardous wastes (in the detailed lists which are appended to the Decision) are subdivided into two other groups: "red" and "amber". Wastes under the "red" controls are to move under the same requirements as set forth in the Basel Convention, except that OECD Member countries agree to complete the consent procedures within 30 days. Wastes under the "amber" control system also are subject to objection and consent procedures to be completed within 30 days. Shipments may only begin after consent, which would normally be provided in a tacit manner, by expiry of a 30-day period after the importing country has acknowledged receipt of the shipment notification. Tacit consent is valid for a one year period. Written consent may be provided prior to the end of the 30-day period.

6. The OECD Decision also has the following provisions:
   - Applicable only in the OECD area;
   - Wastes must be destined for recovery operations in a facility which is operating or authorized to operate under applicable domestic law in the importing country;
   - Transfrontier movements must be in accord with any applicable international agreements governing transport of goods;
   - Transfrontier movements must be subject to a valid and complete chain of contracts, including any nationally or internationally required financial guarantee(s).

7. This initiative is a major step towards having completely harmonized lists of wastes, the transfrontier movements of which will be properly controlled when such wastes are exported for recovery operations within the OECD area. At the present moment, however, certain Member countries are constrained by existing domestic legislation as to how some specific wastes must be controlled. Further work by the OECD will ensure that the control system and the lists of wastes are periodically reviewed and modified in order to achieve uniform application of the Decision.****