JUDGMENT OF THE COURT (Sixth Chamber)

25 June 1998 *

In Case C-192/96,

REFERENCE to the Court under Article 177 of the EC Treaty by the Netherlands Raad van State for a preliminary ruling in the proceedings pending before that court between

Beside BV and I. M. Besselsen

and

Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer

on the interpretation of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1) and of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste (OJ 1991 L 78, p. 32),

* Language of the case: Dutch.

THE COURT (Sixth Chamber),

composed of: H. Ragnemalm (Rapporteur), President of the Chamber, G. F. Mancini, P. J. G. Kapteyn, J. L. Murray and G. Hirsch, Judges,

Advocate General: F. G. Jacobs,
Registrar: H. A. Rühl, Principal Administrator,

after considering the written observations submitted on behalf of:

— the Netherlands Government, by J. G. Lammers, Deputy Legal Adviser at the Ministry of Foreign Affairs, acting as Agent,

— the Danish Government, by P. Biering, Head of Directorate, Ministry of Foreign Affairs, acting as Agent,

— the German Government, by B. Kloke, Oberregierungsrat, Federal Ministry of the Economy, acting as Agent,

— the Finnish Government, by Holger Rotkirch, Ambassador, Head of the Legal Service in the Ministry of Foreign Affairs, acting as Agent,

— the Commission of the European Communities, by P. van Nuffel, of its Legal Service, acting as Agent,

having regard to the Report for the Hearing,

after hearing the oral observations of the Netherlands Government, represented by J. S. van den Oosterkamp, Deputy Legal Adviser, Ministry of Foreign Affairs, acting as Agent, the Danish Government, represented by P. Biering, and the Commission, represented by P. van Nuffel, at the hearing on 3 July 1997,

after hearing the Opinion of the Advocate General at the sitting on 23 October 1997,

gives the following

Judgment

1 By order of 31 May 1996, received at the Court Registry on 4 June 1998, the Netherlands Raad van State (Council of State) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty three questions on the interpretation of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1, hereinafter 'the Regulation'), and of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32, hereinafter 'the Directive').

2 Those questions were raised in proceedings between the Netherlands company Beside BV and its director, Mr Besselsen, and the Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer (Netherlands Minister for Housing, Town and Country Planning and the Environment, hereinafter 'the Minister') concerning a shipment of waste.

3 According to the documents before the Court, Beside NV, a dealer in waste, obtained a quantity of waste in Germany and, without notifying the authorities of the import operation, shipped it to the Netherlands. The waste was stored in a shed pending sale and delivery to manufacturers of plastic products established primarily in the Far East.

4 The waste at issue in the main proceedings comprises eight bales of plastic mixed with other materials. Samples of the waste were subjected to detailed analysis by the Nederlandse Rijksinstituut voor Volksgezondheid en Milieuhygiëne (National Institute for Public Health and Environmental Hygiene).

5 The analysis showed that the waste was not homogeneous and that the proportion of plastic in the waste varied from one bale to another. According to the reports prepared, the proportion of plastic in the four bales analysed varied from 58.3 to 92.3% and, moreover, the bales contained paper, cardboard, metals and wood, together with other non-plastic materials such as glass and textiles. In one of the bales, six live rounds of ammunition were found.

6 By letter of 21 April 1995 the Minister informed Beside BV and Mr Besselsen that the waste would have to be sent back to Germany. That decision allowed the plaintiffs to take the waste back to Germany themselves.

7 Beside BV and Mr Besselsen lodged a joint notice of objection to that decision with the Minister, contending that the duty of notification did not apply to the waste concerned and that, therefore, it was unlawful to require it to be sent back. The objection was dismissed by a reasoned decision of 29 June 1995 which is the subject of the proceedings in this case before the Raad van State.

The applicable legislation

8 Commission Decision 94/3/EC of 20 December 1993 establishing a list of wastes pursuant to Article 1a of Council Directive 75/442/EEC (OJ 1994 L 5, p. 15) established a harmonised and non-exhaustive list of wastes commonly known as the 'European Waste Catalogue'. That catalogue applies to all waste, whether intended for disposal or for recovery.

9 The Regulation contains a 'green list of wastes' (Annex II), an 'amber list of wastes' (Annex III) and a 'red list of wastes' (Annex IV).

10 Depending on whether the waste concerned is intended for disposal or for recovery, Articles 3 and 6 of the Regulation provide that, before shipping waste, the person proposing to ship it or arrange for its shipment must, having regard to the nature of the waste, notify the competent authorities concerned of the shipment.

11 Under Article 1(3)(a) of the Regulation, shipments of waste on the green list in Annex II destined for recovery only are not required to be notified.

12 Article 11 of the Regulation provides:

'1. In order to assist the tracking of shipments of waste for recovery listed in Annex II, they shall be accompanied by the following information, signed by the holder:

(a) the name and address of the holder;

(b) the usual commercial description of the waste;

(c) the quantity of the waste;

(d) the name and address of the consignee;

(e) the operations involving recovery, as listed in Annex II. B to Directive 75/442/EEC;

(f) the anticipated date of shipment.

2. The information specified in paragraph 1 shall be treated confidentially in accordance with existing national regulations.'

13 In the case of waste on the amber list in Annex III, Article 6(1) of the Regulation provides:

'Where the notifier intends to ship waste for recovery listed in Annex III from one Member State to another Member State and/or pass it in transit through one or several other Member States, and without prejudice to Articles 25(2) and 26(2), he shall notify the competent authority of destination and send copies of the notification to the competent authorities of dispatch and transit and to the consignee.'

14 According to Articles 7(2) and 8(1) of the Regulation, shipment may take place following written consent or tacit consent if, within a period of 30 days after notification, no objection has been made by the competent authorities of destination, dispatch or transit.

15 For the shipment of waste on the red list in Annex IV, Article 10 of the Regulation requires consent to be given in writing before commencement of the operation.

16 The green, amber and red lists in the annexes to the Regulation were amended by Commission Decision 94/721/EC of 21 October 1994 adapting, pursuant to Article 42(3), Annexes II, III and IV to Council Regulation (EEC) No 259/93 (OJ 1994 L 288, p. 36) and by Commission Decision 96/660/EC of 14 November 1996 adapting, pursuant to Article 42(3), Annex II to Council Regulation No 259/93 (OJ 1996 L 304, p. 15).

17 Under Article 26(1)(a) of the Regulation, any shipment of waste effected without notification to all competent authorities concerned pursuant to the Regulation is to be deemed to be illegal traffic.

18 Article 26(2) of the Regulation provides:

'If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:

(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or, if impracticable,

(b) otherwise disposed of or recovered in an environmentally sound manner,

within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.'

19 In the Netherlands, Article 10.44e of the Wet Milieubeheer (Law on Environmental Management) provides for penalties for the acts referred to in Article 26(1) of the Regulation. Under Article 18.7, first paragraph, of the Wet Milieubeheer, the Minister is empowered, in the event of an infringement of that law, to apply an 'administrative measure for the restoration of the legal situation' and to order the waste to be sent back to the place from which it came.

The questions referred to the Court

20 In order to ascertain whether the Minister was entitled to adopt the contested decisions on the basis of Article 26(2) of the Regulation, the national court has submitted the following three questions:

'1. Should the expression "municipal/household waste" referred to under AD 160 in Annex III to Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1), as subsequently amended, be interpreted as also including waste which for the most part consists of the solid plastic wastes referred to in Annex II to the Regulation, but also of various other wastes referred to in that Annex and a small quantity of materials not referred to therein?

2. (a) If Question 1 is answered in the affirmative, should the phrase "storage of materials intended for submission to any operation in this annex" in Annex IIB to Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 47), as subsequently amended, be interpreted as covering not only storage at the plant in which the other operations referred to in the annex will take place, but also storage pending transport to such a plant, regardless of whether that plant is situated inside or outside the Community?

(b) If the first part of this question is answered in the affirmative, what minimum evidence must be available for a finding that the waste is actually intended for recovery, where notification has not been given?

3. If Questions 1 and 2(a) are answered in the affirmative, must it then be inferred from the third sentence of Article 26(2) of the Regulation that, in the cases to which that provision refers, the competent authority of destination is also obliged, or at any rate authorised, to do what the competent authority of dispatch is obliged to do pursuant to the first sentence of that provision?'

The first question

21 By its first question, the Raad van State is seeking, essentially, to ascertain whether the term 'municipal/household waste' under code AD 160 in the amber list in Annex III to the Regulation, as amended by Decision 94/721, includes (a) waste

which for the most part consists of waste mentioned on the green list in Annex II to the Regulation, mixed with other categories of waste on that list and (b) waste mentioned on the green list mixed with a small quantity of materials not mentioned on that list.

22 The Netherlands Government submits that the origin of the waste, in principle, determines its classification. In view of the origin of the waste in this case, it must come within the category 'AD 160 municipal/household waste' as indicated on the amber list in the Regulation. In no circumstances could it be regarded as waste on the green list in the Regulation.

23 The Danish Government submits that a consignment of waste of municipal or household origin can be classified as 'green waste' only if it constitutes a homogeneous batch belonging in its entirety to one of the categories on the green list in the Regulation. That is clear from the letter and spirit of the Regulation and from the fact that shipments of waste should be monitored in a manner which is both effective and environmentally sound.

24 According to the Finnish Government, household waste collected separately should not be classified as 'municipal/household waste' in category AD 160 of the amber list. It could be classified on the green list provided that it is sufficiently pure and homogeneous.

25 The German Government contends that the fact that the waste comes from individuals and municipal tips does not of itself imply that it must necessarily be classified on the amber list of waste under code 'AD 160 municipal/household waste'.

Even waste of household and municipal origin can be classified on the green list of the Regulation when it is collected separately and, if need be, sorted by reference to certain materials.

26 The Commission maintains that a batch of waste can cease to fall within the classification of 'municipal/household waste' only if, as a result of sorting, the entire batch can be classified under another heading. If the sorting is insufficient, the waste will remain within the category of 'municipal/household waste' even if all the different products in the batch each appear on the green list. It is for the national authorities and, in the event of dispute, the courts, to determine whether a batch of waste is to be regarded as homogeneous or mixed.

27 It must be borne in mind at the outset that Article 2(a) of the Regulation, by reference to Article 1(a) of the Directive, introduced a common definition of the concept of waste and that that article is directly applicable in the Member States (Joined Cases C-304/94, C-330/94, C-342/94 and C-224/94 *Tombesi and Others* [1997] ECR I-3561, paragraph 46).

28 The waste mentioned under the heading '20 00 00 Municipal wastes and similar commercial, industrial and institutional wastes including separately collected fractions' of the European Waste Catalogue reflects the diversity of the origin and composition of municipal/household waste. That heading includes, in particular, the following subheadings: '20 01 00 Separately collected fractions', '20 01 03 small plastics', '20 01 04 other plastics', '20 01 05 small metals (cans etc.)', '20 01 07 wood', '20 01 10 clothes' and '20 01 11 textiles'. The heading '20 03 00 other municipal waste' includes subheading '20 03 01 mixed municipal waste'.

29 It must be emphasised that, for the purpose of classifying a batch of waste, the origin of the waste is not in itself decisive for the purpose of its classification in one of the lists, green, amber or red, set out respectively in Annexes II, III and IV to the Regulation.

30 Thus, waste of municipal or household origin which has been collected separately and falls within subheading '20 01 03 small plastics' of the European Waste Catalogue may, on the basis of its composition, come under the heading 'GH Solid plastic wastes' in the green list of waste.

31 On the other hand, such waste mixed with other waste on the green list or the amber list — and therefore not collected separately — would, if appropriate, come under subheading '20 03 01 mixed municipal waste' of the European Waste Catalogue and would therefore, having regard to the extent to which it was contaminated, belong to category 'AD 160 municipal/household waste' on the amber list in the Regulation.

32 Therefore, 'municipal/household waste' does not cease to be 'amber waste' and therefore does not come within the green list unless it has been collected separately or properly sorted.

33 As is clear from the introduction to the green list of waste, waste may not, regardless of whether or not it is included on that list, be moved as green waste if it is contaminated by other materials to an extent which (a) increases the risks associated with the waste sufficiently to render it appropriate for inclusion in the amber or red lists, or (b) prevents the recovery of the waste in an environmentally sound manner.

34 The answer to the first question must therefore be that the expression 'municipal/household waste' referred to under AD 160 in the amber list in Annex III to the Regulation, as amended by Decision 94/721, includes both waste which for the most part consists of waste mentioned on the green list in Annex II to the Regulation, mixed with other categories of waste appearing on that list, and waste mentioned on the green list mixed with a small quantity of materials not referred to on that list.

The second question, part (a)

35 By part (a) of its second question, the national court is seeking essentially to ascertain whether the reference to the storage of materials in point R 13 of Annex II B to the Directive, as amended by Directive 91/156, covers not only cases in which storage takes place in the undertaking in which the other operations mentioned in that annex must be carried out but also cases in which storage precedes transport to such an undertaking, regardless of whether the latter is inside or outside the Community.

36 The Netherlands and Danish Governments and the Commission submit that in view of the wording of Annexes II A and II B to the Directive, storage prior to transport to an undertaking which carries out the operations described in those annexes must also be regarded as storage pending one of those operations.

37 According to the Finnish Government, storage in a place other than the undertaking where the waste is to be treated is also a recovery operation within the meaning of point R 13 'Storage of materials intended for submission to any operation in this Annex, excluding temporary storage, pending collection, on the site where it is produced' in Annex II B to the Directive.

38 It must be observed at the outset that storage is expressly included in the definitions of both disposal and recovery operations. The Regulation refers to the definitions of disposal and recovery in the Directive (see Articles 2(i) and (k) of the Regulation and 1(e) and (f) of the Directive and Annexes II A and II B thereto).

39 Point D 15 of Annex II A to the Directive treats as a disposal operation storage pending any of the other disposal operations listed in that annex, excluding temporary storage, pending collection, on the site where it is produced. Storage of materials intended for submission to any of the other recovery operations listed in Annex II B, excluding temporary storage, pending collection, on the site where it is produced, is regarded, in point R 13 of Annex II B, as a recovery operation.

40 Annexes II A and II B do not provide that, to constitute a disposal or recovery operation, the storage of waste must be carried out at the establishment in which it is planned to carry out the other operations mentioned in those annexes. On the other hand, storage on the site where the waste is produced cannot be authorised in that context, which would imply that there has been no movement of the waste. Moreover, Article 6(2) of the Regulation provides: 'Notification shall mandatorily cover any intermediary stage of the shipment from the place of dispatch to its final destination'.

41 Since the danger to the environment or to human health stems both from the recovery or disposal of waste and from the shipment of waste, it is of no importance whether a particular batch of waste is stored at the place where it is finally subjected to a recovery operation or at some other place. Notification of the shipment is required in both cases.

42 Finally, it must be emphasised that since the definitions of disposal and recovery do not contain any geographical limitation, so that the Regulation applies to exports outside the Community, it is of no importance whether the recovery operation following storage takes place inside or outside the Community.

43 Consequently, the reference to the storage of materials in Annex II B to the Directive also covers cases in which storage precedes transport to an undertaking in which the recovery operations are to be carried out, regardless of whether that undertaking is established inside or outside the Community.

44 The answer to part (a) of the second question must therefore be that the reference to the storage of materials in point R 13 of Annex II B to the Directive, as amended by Directive 91/156, covers not only cases in which storage takes place in the undertaking in which the other operations mentioned in that annex must be carried out but also cases in which storage precedes transport to such an undertaking, regardless of whether the latter is established inside or outside the Community.

Part (b) of the second question

45 By part (b) of its second question, the national court seeks essentially to ascertain what is the minimum evidence that the competent authority must normally require, in the absence of notification, in order to establish that the 'green waste' is intended for recovery.

46 The Netherlands Government submits that, in an illegal situation in which there has been no notification, at least the documents referred to in Article 11 of the Regulation must be produced. In the event of intermediate storage, information concerning the final destination must be available.

47 The Danish Government maintains that a contract must exist between the consignee and the undertaking which is to carry out definitive recovery of the waste, or a comparable document, ensuring that the recovery will take place in accordance with the Regulation. Article 6(4) of the Regulation allows the competent authorities to require additional information and documents.

48 The German Government maintains that, in order to enable the competent authority to check at least the plausibility of the planned further recovery operation, the notification form, in addition to the R 13 wording 'Storage of materials intended for submission to any operation in this Annex, excluding temporary storage, pending collection, on the site where it is produced' provided for in Annex II B to the Directive, must give additional information concerning the planned further recovery operation, including the matters required by Article 6(5) of the Regulation.

49 According to the Finnish Government, the competent authority must be apprised of the place and the final waste recovery process so as to be able to satisfy itself that the operation meets the R 13 recovery conditions and that the waste shipment is not contrary to the requirements of the Regulation, in particular those of Article 17.

50 According to the Commission, no direct answer can be given to the second question since intra-Community transport of waste on the amber list which has not been the subject of a notification to all the competent authorities concerned in all

cases still constitutes illegal traffic within the meaning of Article 26 of the Regulation.

51 It must be observed that, according to Article 11(1) of the Regulation, shipments of 'green waste' intended for recovery must be accompanied by certain items of information supplied by the holder in order to assist the tracking of the shipments. Moreover, Article 1(3)(b) of the Regulation provides that such waste is to be subject to all the provisions of the Directive; it must in particular be destined only for plant that have been duly authorised in accordance with Articles 10 and 11 of the Directive.

52 On the other hand, for 'amber waste' intended for recovery, Article 6(4) of the Regulation provides that the notifier is to complete the consignment note and, if requested by competent authorities, supply additional information and documentation. Article 6(5) of the Regulation provides that the consignment note must contain information relating in particular to certain matters such as identity of the consignee of the waste, the location of the recovery centre and the type and duration of the authorisation under which the centre operates, and also the recovery operations mentioned in Annex II B to the Directive.

53 It must be added that, given that the storage of a batch of 'green waste' is not regarded as a recovery operation unless it takes place pending such an operation, such evidence must relate to the final recovery operation, even if it is to take place outside the Community.

54 Thus, in order to take account of the objective of environmental protection underlying the Regulation, the competent authorities must, as a general rule and as a

minimum, be able to require, in relation to 'green waste' intended for recovery and not subject to notification, the information mentioned in Article 11 of the Regulation.

55 The answer to part (b) of the second question must therefore be that the information listed in Article 11(1) of the Regulation constitutes the minimum evidence which the competent authority may, in the absence of notification, require in order to establish that 'green waste' is intended for recovery.

The third question

56 By its third question, the national court seeks essentially to ascertain whether the Regulation must be interpreted as meaning that the Member State of destination may unilaterally ship the waste back to the Member State of dispatch without prior notification to the latter and whether the Member State of dispatch may oppose such reshipment where the Member State of destination submits a duly motivated request to that end.

57 The Netherlands, Danish and Finnish Governments submit, on the basis of Articles 5 and 130r of the EC Treaty and a teleological interpretation of the Directive and of the last sentence of the second subparagraph of Article 26(2) of the Regulation, that the Member State of destination must be independently empowered to send waste back to the State from which it came or to make other arrangements for its disposal.

58 The German Government contends that the authority at the place of destination is not entitled to arrange for repatriation of illegally transported waste without the consent of the authority of dispatch. Otherwise, the competent authority of dispatch would not be in a position to verify whether the waste in question had been illegally shipped through fault on the part of the notifier alone. Moreover, the competent authority of dispatch must have an opportunity of deciding for itself what arrangements for repatriation of the waste are, from its point of view, the most appropriate and, in terms of cost, the most advantageous.

59 The Commission submits that a decision of the authority of destination ordering the notifier to ship the waste constituting illegal traffic back to the Member State of dispatch is not contrary to Article 26(2) of the Regulation where that decision is intended to assist the authority of dispatch to fulfil its obligations under that provision, unless that decision was adopted without consultation with the authority of dispatch.

60 The Commission adds that it is clear from Article 26(2), (3) and (4) of the Regulation that the question of which authority must take action depends on the person responsible for the illegal traffic operation. If that operation was organised by the notifier, the main responsibility for disposal or recovery of the waste falls on the authority of dispatch (Article 26(2) of the Regulation); if the illegal operation was organised by the consignee, the main responsibility for disposal or recovery of the waste falls on the authority of destination (Article 26(3) of the Regulation). If responsibility for the illegal traffic operation cannot be imputed either to the notifier or to the consignee, the two authorities must cooperate in order to reach a solution (Article 26(4) of the Regulation).

61 In that connection, it must be emphasised that a shipment of waste which has not been notified to all the competent authorities concerned is deemed, pursuant to Article 26(1)(a) of the Regulation, to constitute illegal traffic.

62 The obligation to notify rests upon the person who proposes shipping or arranging for shipment of the waste (Article 2(g) of the Regulation). That definition includes in certain cases, according to Article 2(g)(iii), 'the person having possession or legal control of the waste (holder)'.

63 In this case, the national court has established that Beside BV was the holder of the waste within the meaning of the Regulation and that, if notification of the transport operation was necessary, that company should have notified that operation in accordance with the Regulation.

64 The first subparagraph of Article 26(2) of the Regulation provides that if the illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch is to ensure that the illegally exported waste is taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or, if that is impracticable, is otherwise disposed of or recovered in an environmentally sound manner.

65 In the event of illegal traffic for which the notifier is responsible, the second subparagraph of Article 26(2) of the Regulation provides that a further notification is to be made and that no Member State of dispatch or Member State of transit is to oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

66 Consequently, the obligation not to oppose the return of illegal waste, laid down in the second sentence of the second subparagraph of Article 26(2) of the Regulation, falls on the Member State of initial dispatch where the notifier is responsible for the illegal operation.

67 Consequently, the answer to the third question must be that the Regulation must be interpreted as meaning that the Member State of destination may not unilaterally return waste to the Member State of dispatch without prior notification to the latter; the Member State of dispatch may not oppose its return where the Member State of destination produces a duly motivated request to that effect.

Costs

68 The costs incurred by Netherlands, Danish, German and Finnish Governments and by the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber),

in answer to the questions referred to it by the Netherlands Raad van State by order of 31 May 1996, hereby rules:

1. The expression 'municipal/household waste' referred to under AD 160 in the amber list in Annex III to Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into

and out of the European Community, as amended by Commission Decision 94/721/EC of 21 October 1994 adapting, pursuant to Article 42(3), Annexes II, III and IV to Council Regulation (EEC) No 259/93, includes both waste which for the most part consists of waste mentioned on the green list in Annex II to the Regulation, mixed with other categories of waste appearing on that list, and waste mentioned on the green list mixed with a small quantity of materials not referred to on that list.

2. a. The reference to the storage of materials in point R 13 of Annex II B to Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991, must be interpreted as covering not only cases in which storage takes place in the undertaking in which the other operations mentioned in that annex must be carried out but also cases in which storage precedes transport to such an undertaking, regardless of whether the latter is established inside or outside the Community.

2. b. The information listed in Article 11(1) of Regulation No 259/93 constitutes the minimum evidence which the competent authority may, in the absence of notification, require in order to establish that 'green waste' is intended for recovery.

3. Regulation No 259/93 must be interpreted as meaning that the Member State of destination may not unilaterally return waste to the Member State of dispatch without prior notification to the latter; the Member State of

dispatch may not oppose its return where the Member State of destination produces a duly motivated request to that effect.

Ragnemalm Mancini Kapteyn

Murray Hirsch

Delivered in open court in Luxembourg on 25 June 1998.

R. Grass H. Ragnemalm

Registrar President of the Sixth Chamber