

# Illegal traffic under the Basel Convention

National reports submitted in the framework of the Basel Convention suggest that nearly 180 million tonnes of hazardous and household wastes are generated annually around the world<sup>1</sup>. According to the same reports, at least 9.3 million tonnes of these wastes move from country to country each year, and this waste is presumably received as a welcome source of business. This leaves some 170 millions tonnes of hazardous and household wastes that are assumed to be disposed of nationally in an environmentally sound manner. But is this the case?

Many countries complain that they are receiving shipments which they never agreed to or that they are unable to properly dispose of. From Brazil to Singapore, from Belgium to Ghana, or from Canada to Russia, it would be challenging to find a single country that has never suffered a case of illegal traffic of waste.



Photo: Susan Wingfield

## What is illegal traffic?

The Basel Convention is an international agreement which regulates the transboundary movement and the disposal of hazardous and other wastes. The Convention establishes a series of mandatory procedures that need to be adhered to with the aim of controlling the export, transit and import of specific wastes, including such day-to-day items such as TV monitors, metal cables insulated with plastics, lead-acid batteries, household wastes, and used oils for disposal.

The Convention's primary aim is to protect human health and the environment from the harm posed by the generation and management of such wastes. Before any shipment of hazardous or other wastes leaves the country of export, the country that shall dispose of the wastes, and any countries of transit, must be informed of and agree to this shipment. Also, the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question must be confirmed before the export can be allowed.

Shipments which do not meet the "prior informed consent" requirements of the Basel Convention or that result in deliberate disposal (e.g. dumping) of the wastes in contravention of the Convention are illegal. Illegal traffic is a crime.

The Basel Convention is one of the very few environmental treaties to define a prohibited activity as a crime. The fact that illegal traffic is deemed a crime that Parties undertake to prevent and punish says a lot about the international community's commitment to the environmentally sound management of hazardous and other wastes.

<sup>1</sup> Based on national reports transmitted to the Secretariat of the Basel Convention for the year 2006.

**Article 9** of the Basel Convention provides that any transboundary movement of hazardous wastes or other wastes shall be deemed as illegal traffic when it is:

- (a) without notification pursuant to the provisions of this Convention to all States concerned; or
- (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
- (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or
- (d) that does not conform in a material way with the documents; or
- (e) that results in deliberate disposal of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law.

Not everyone seems to share the common global ambition expressed by the Basel Convention, and find many inventive ways to avoid its rules, for example by smuggling shipments across borders, bribery, fraud and false declarations. As with many other crimes, greed often drives illegal traffic.

### **A concrete case of illegal traffic from the Netherlands**

“When Dutch customs drove alongside a terminal in the harbor of Amsterdam, they saw some people getting TV’s out of boxes and loading the TV’s in a container. That particular terminal is well known by the custom officers as a terminal where containers are loaded for Africa. When they approached the container they saw some heavily damaged TV’s, TV’s without any packaging and not well stowed. The customs phoned the VROM-Inspectorate and asked for assistance. The decision was made that the custom would investigate the shipment from Amsterdam to Ghana, destination country, and that the VROM-inspectorate would investigate the origin of the TVs. The customs questioned the man who was in charge of the loading of the container. He testified that he bought the TV’s from a company in Kampen (Holland). The VROM-Inspectorate investigated the company in Kampen. This company had bought the TV’s in Munster (in Germany) and had transported them from Munster to Amsterdam. The receiver of the TV’s in Amsterdam got booked for the illegal shipment of waste from Amsterdam to Ghana and the company in Kampen got booked for the illegal shipment of waste from Munster (Germany) to Amsterdam.” (VROM, September 2010)

### **Who is affected by this?**

We all are, to various degrees. For example, consumers whose electronic or electrical waste is brought to authorized collection and recycling facilities are affected when these wastes are diverted from the legal waste chain and dumped illegally. Individuals, who live nearby dumping sites, are affected by the pollution of the air, the water and the soil as a result of their contamination by toxic chemicals inherent in these wastes. Workers, including children, who are employed to dispose of our electronic or electrical wastes in unsafe and unregulated conditions are also particularly vulnerable to the adverse effects of these wastes. The detrimental consequences resulting from the improper treatment of these wastes will affect generations to come.

Hazardous wastes, if improperly handled, can have appalling effects on human health and the environment. A persistent exposure to dioxins, for example, which are unwanted by-products of incineration and manufacturing processes such as those involved in the bleaching of paper pulp are known to result in skin lesions and altered liver functions in the short-term, and impairment to the immune system and even cancer in the long-term.

Another grim example of the potential effects of improper disposal of hazardous wastes is where workers are employed to cut electrical wires to remove the valuable copper for reuse. Once the copper has been removed, the plastic coating is burnt, releasing polyvinyl chloride and brominated flame retardants into the environment. This process puts workers at risk of respiratory and skin diseases, eye infections and cancer.

Frequently, cases of illegal traffic do not have appropriate disposal plans, which means that shipments of hazardous wastes are often thoughtlessly dumped in rivers, villages and seas. In addition to the adverse impacts on human health, the contamination of our land, air and waters can lead to irreparable damage to the environment.



Photo credit: Swiss Federal Laboratories for Materials Science and Technology (EMPA)

## Why should we be concerned by it?

The prevention of illegal traffic in hazardous wastes will ensure that only those who have the willingness and are able to dispose of the wastes in an environmentally sound manner receive them.

Preventing illegal traffic will improve human health, particularly among the poor, and will eventually lead to a general improvement in the quality of life of the vulnerable. Furthermore it will protect our environment from possible further degradation at the hands of improperly regulated disposal of hazardous wastes and other wastes.

The prevention of the negative consequences of illegal traffic will also help countries to develop with limited detriment to the environment, allowing continued enjoyment of the environment and the resources it provides in the long-term.

This will take us one step closer to achieving the Millennium Development Goals in particular the goals of poverty reduction, reducing child mortality, improving maternal health, and ensuring environmental sustainability.

## What is being done about it?

Illegal traffic of hazardous and other wastes, like many other criminal activities, is a complex issue. Efforts are being made to strengthen the prevention, detection, control and punishment of illegal traffic in hazardous and other wastes, but much more is needed. This can be done on many fronts:

### *At the national level:*

- Adopt an appropriate legal framework implementing the Basel Convention, including measures to prevent and punish illegal traffic, that will clarify the procedures as well as the respective rights and obligations of entities dealing with illegal traffic;
- Raise the awareness of all interested stakeholders about the illegal traffic provisions of the Basel Convention and the national legal framework: law and policy makers, the judiciary, environmental authorities, enforcement entities, port authorities, the shipping industry, waste generators, waste disposers;
- Ensure the availability of adequate disposal facilities for the environmentally sound management of hazardous and other wastes located, to the extent possible, within the country;
- Train enforcement personnel (customs, port authorities, coast guards, environment agencies, police) to build its capacity to better prevent, detect, identify and deal with cases of illegal traffic;

- Focus as much on exports as on imports and provide incentives for enforcement entities to prevent and deal with cases of illegal traffic of hazardous and other wastes;
- Improve cooperation among entities dealing with implementation, compliance and enforcement at the national level, in particular between the Basel Convention Competent Authority at the national level and enforcement entities;
- Investigate, prosecute and punish cases of illegal traffic.

*At the regional level:*

- Effective exchange of information and enhanced cooperation between countries in a region, particularly those which share border crossings or waterways, would ensure that all countries are informed of potentially illegal waste movements in the region and thus reduce any "port hopping" attempt.
- Sharing of best practices in a region also helps to improve the capability of countries to deal with this problem.

*At the international level:*

- Better understand and address the social and economic drivers of this phenomenon - both on the demand and on the supply side- as well as why, where and when illegal activities find their way into the global waste chain;
- Build the capacity of developing countries and countries with economies in transition to manage hazardous and other wastes in an environmentally sound manner;
- Build the capacity of countries, particularly developing countries and countries with economies in transition, to effectively prevent and deal with illegal traffic. This can be done through the development of tools and information materials and also through the delivery of training, for instance through the Green Customs Initiative as well as the Secretariat and Basel Convention Centres' projects;

- Strengthen the cooperation among the organizations and networks active in the field of illegal traffic;
- Clarify the applicable procedures and improve the cooperation between Parties concerned by a specific case of illegal traffic. For instance, once an illegal shipment has been taken back by the exporter, the countries concerned could jointly monitor the shipment to ensure that it reaches the exporter and is disposed of in compliance with the Basel Convention;
- Raise awareness of the implications illegal traffic has on human health and the environment.



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