THE BASEL CONVENTION

ILLEGAL TRAFFIC

Secretariat of the Basel Convention
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1. GOALS OF THE BASEL CONVENTION

- Minimization of the production of hazardous wastes
- Reduction of the transboundary movement of hazardous wastes
- Control and supervision of those movements that still have to take place
- Management disposal and transboundary movement of hazardous wastes shall take place in an environmentally sound management
1. GOALS OF THE BASEL CONVENTION

In order to achieve these objectives and goals, the Convention contains definitions and regulations on all matters relating to the subject, such as export and import, international agreements and illegal traffic.
2. BASEL CONVENTION DEFINITIONS

- Waste
- Hazardous waste
- Other waste
- Exclusions
- Transboundary movement
- Environmentally sound management
3. CATEGORIES OF WASTES TO BE CONTROLLED BY THE BASEL CONVENTION
A) WASTE STREAM

Y1 Clinical wastes from medical care hospital, medical center and clinics
Y2 Wastes from the production and preparation of pharmaceutical products
Y3 Waste pharmaceuticals drugs and medicines
Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
Y6 Wastes from the production, formulation and use of organic solvents
A) WASTE STREAM

Y7 Wastes from heat treatment and tempering operations containing cyanides
Y8 Waste mineral oils unfit for their originally intended use
Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated (PBBs)
A) WASTE STREAM

Y11 Waste tarry residues arising from refining, distillation and any prolytic treatment

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
A) WASTE STREAM

Y15 Wastes of an explosive nature not subject to other legislation
Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
Y17 Wastes resulting from surface treatment of metals and plastics
Y18 Residues arising from industrial waste disposal operations
B) WASTES HAVING AS CONSTITUENTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Y19</td>
<td>Metal carbonyls</td>
</tr>
<tr>
<td>Y20</td>
<td>Beryllium, beryllium compounds</td>
</tr>
<tr>
<td>Y21</td>
<td>Hexavalent chromium compounds</td>
</tr>
<tr>
<td>Y22</td>
<td>Copper compounds</td>
</tr>
<tr>
<td>Y23</td>
<td>Zinc compounds</td>
</tr>
<tr>
<td>Y24</td>
<td>Arsenic, arsenic compounds</td>
</tr>
<tr>
<td>Y25</td>
<td>Selenium, selenium compounds</td>
</tr>
<tr>
<td>Y26</td>
<td>Cadmium, cadmium compounds</td>
</tr>
<tr>
<td>Y27</td>
<td>Antimony, antimony compounds</td>
</tr>
</tbody>
</table>
B) WASTES HAVING AS CONSTITUENTS

Y28  Tellurium, tellurium compounds
Y29  Mercury, mercury compounds
Y30  Thallium, thallium compounds
Y31  Lead, lead compounds
Y32  Inorganic fluorine compounds excluding calcium fluoride
Y33  Inorganic cyanides
Y34  Acidic solutions or acids in solid form
Y35  Basic solutions or bases in solid form
Y36  Asbestos (dust and fibres)
B) WASTES HAVING AS CONSTITUENTS

Y37 Organic phosphorus compounds
Y38 Organic cyanides
Y39 Phenols, phenol compounds including chlorophenols
Y40 Ethers
Y41 Halogenated organic solvents
Y42 Organic solvents excluding halogenated solvents
Y43 Any congenor of polychlorinated dibenzo-furan
B) WASTES HAVING AS CONSTITUENTS

Y44 Any congenor of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)
C) ANNEX VIII AND ANNEX IX

In order to facilitate the applications of the Basel Convention, the fourth Conference of the Parties adopted to new Annexes to the Convention, Annex VIII and Annex IX.

Annex VIII contained hazardous wastes and Annex IX contained wastes not covered by the Basel Convention.
4. TRANSBOUNDARY MOVEMENT

Transboundary movement means any movement of hazardous waste or other wastes from an area under the national jurisdiction of one State to/through an area under the national jurisdiction of another State or to/through an area not under the national jurisdiction of any State, provides at least two States are involved in the movement.

This movement can be either directly from one country to the country of designation or it can be the movement of the country of origin to the country of designation via third country.
4. TRANSBOUNDARY MOVEMENT

A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

However, according to Art. 11.1, the export and import can be allowed if the countries concerned have reached a bilateral or multilateral agreement that meets the standard of the environmentally sound management of hazardous wastes and other wastes required by the Convention.
4. TRANSBOUNDARY MOUVEMENT

The parties shall stipulate the provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.
5. AGREEMENTS REACHED UNDER THE CONVENTION

- Each country will prevent hazardous waste as much as possible
- Each country will take care that hazardous waste is removed in a responsible way
- Cross/border transport will be limited
- Import and export of hazardous waste to and from countries where it cannot be processed is prohibited
5. AGREEMENTS REACHED UNDER THE CONVENTION

• Import and export of hazardous waste to and from countries which are not party to the Convention is prohibited

• In case of cross-border transports, the countries involved will be informed

• Countries cooperate.
6. POSSIBLE DANGERS AS LISTED IN THE CONVENTION

- Explosive
- Flammable liquids and solids
- Wastes liable to spontaneous combustion
- Wastes which in contact with water emit flammable gases
- Oxidizing
- Organic peroxides
- Poisonous (acute)
- Infectious
6. POSSIBLE DANGERS AS LISTED IN THE CONVENTION

- Corrosives
- Liberation of toxic gases in contact with air or water
- Toxic (delayed or chronic)
- Ecotoxic
- Capable, by any means, after disposal, of yielding another material
7. LEGAL TRAFFIC

A) REQUIREMENTS
Parties have the right to prohibit the import of hazardous wastes or other wastes. In this case, the Parties shall inform the other Parties of their decision.

Parties shall prohibit the export of hazardous wastes or other wastes to the Parties which have prohibited the import of such wastes.

In accordance with the requirement of an environmentally sound and efficient disposal, the
7. LEGAL TRAFFIC

export shall not be allowed if such disposal is not guaranteed.

B) CONDITIONS

a) Notifications of the state of export
b) Consent of the State to export
c) Other export/import conditions
a) Notification of the State of export

- The State of export has to give notification of any proposed movement of hazardous wastes of other wastes.
- The notification shall be transmitted to the competent authority of the Parties concerned. The competent authorities are governmental authorities designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification.
a) Notification of the State of export

- The notification itself has to abide by certain requirements. It has to be done in writing, and it has to be sent to a designated governmental authority (the competent authority) of the State of export and the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes.

- A notification document form has been developed for these declarations.
b) Consent of the State to export

- The notification has to be sent to the State of import.
- After having received the notification, the State of import shall respond to the notifier, consenting to the movement with or without condition, denying permission for the movement, or requesting additional information. This has to be done in writing as well as and has to be transmitted to the competent authority of the State of export.
b) Consent of the State to export

- Art. 4.1.c of the Basel Convention provides that Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.
c) Other export/import conditions

- The actual export can only begin after the State of export has received the necessary written confirmations.
- In general, this means the written consent of the State of import and a confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.
- The procedure varies if the wastes is transported through another country before reaching its final destination. The State of transit has to be included in the procedure.
c) Other export/import conditions

- If a State of transit, that is a Party of the Basel Convention, is involved, its written consent is required as well, unless the State of transit decide not to require written consent and informed other Parties of this decision pursuant to Art. 13
- The export has to be in accordance with the general obligations and requirements laid out above
- There has to be fulfill other formal requirements
c) Other export/import conditions

- Only authorized persons are allowed to transport and to dispose of the waste.
- The packaging, labeling, and transporting has to be done in accordance with generally accepted and recognized international rules and standards and practices.
- The waste has to be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.
d) Conclusions

• The transboundary movement of hazardous wastes or other wastes is only legal if the consent from States concerned is not obtained through falsification, misrepresentation or fraud, and if the wastes concerned conform in a material way with the document.

• Furthermore, the transboundary movement of hazardous wastes or other wastes is only legal if it does not result in deliberate disposal (e.g. dumping) in contravention of the Basel Convention and of general principles of international law.
8. ILLEGAL TRAFFIC

Illegal traffic is considered any transboundary movement of hazardous wastes:

a) Without notification pursuant to the provisions of the Convention to all States concerned; or
b) Without 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
8. ILLEGAL TRAFFIC

d) That does not conform in a material way with the documents; or

e) That results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law.

The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.
A) DECISION V/23

Decision V/23, “Prevention and monitoring of illegal traffic in hazardous wastes and other wastes” provides the following:

- Gives the mandate to TWG and LWG to develop recommended procedures to address alleged cases of illegal traffic and to assist Parties in preventing, identifying, monitoring and managing illegal traffic
- Appeals to Parties to bring any confirm cases or, after consultation and agreement with other Parties involved, alleged cases of
illegal traffic to the attention of Secretariat of the Basel Convention to enable the Secretariat to take appropriate actions

• Request the Secretariat to continue its cooperation with various organizations, especially with INTERPOL, WORLD CUSTOMS ORGANIZATION and UN Committee of Expert on the Transport of Dangerous Goods

• Request Parties and the Secretariat to take the necessary preventive measures
A) DECISION V/23

- Request the Parties with the assistance from the Secretariat to organize training courses and develop training manuals at national and regional level for customs officers, police forces and environmental enforcement officers.
B) INTERNATIONAL COOPERATION AGAINST ILLEGAL TRAFFIC

In recent years, several, UN entities such as the UN Commission on Crime Prevention and Criminal Justice, the UNEP, the UNDP, IAEA/World Atom, the Climate Change, CITES, Vienna and Montreal Protocol Convention Secretariat, the UN High Commissioner for Human Rights, plus the Group of the 8 most industrialized countries (formerly G7), the European Union, the Union for Nordic Countries, World Customs Organization (WCO), the International Maritime Organization (IMO), the Organization for the Prohibition of Chemical Weapons (OPCW) and
B) INTERNATIONAL COOPERATION AGAINST ILLEGAL TRAFFIC

Interpol, have also expressed their deep concern in relation to increasing number of illegal traffic cases in hazardous wastes, chemicals, wild life, etc., and have addressed the issue of crime against the environment in general and the issue of illegal traffic in particular.

Cooperation across borders and between national and international entities, as well as with non-governmental organizations, has allowed transnational crime to be uncovered and also led to the creation of a string of databases.
B) INTERNATIONAL COOPERATION AGAINST ILLEGAL TRAFFIC

The cooperation between the Secretariat of the Basel Convention and its partners focused on:

- Identifying causes generating the opportunity for illegal traffic
- Exchange information
- Improving our data base
- Learning from modus operandi of criminals
- Investigation of methods and techniques used
B) INTERNATIONAL COOPERATION AGAINST ILLEGAL TRAFFIC

• Identifying deficiencies of existing national legislation and making proposal for reform
• Learning about prosecution process and its outcome and sanction imposed, including an assessment of deterrent effects
• Providing Parties, on a regular basis, with these information.
C) OBJECTIVE OF CRIMINAL INVESTIGATION

1. Insight into which rules and regulations have been violated
2. Who violated the law
3. Who else was involved
4. Seriousness of the violation (as regards environment and criminal law)
9. OTHER MAIN TYPES OF ILLEGAL ACTIVITIES

1. Illegal dumping
2. Serious pollution
10. ILLEGAL ACTIVITIES

PERPETRATOR

• Producer of waste
• Legal and illegal transporter
• Waste broker
• Legal and illegal processor
10. ILLEGAL ACTIVITIES

VIOLATIONS

• Irresponsible storage
• Dumping without precautionary measures
• Discharge into sewage system or groundwater
• Mixing with non-hazardous waste
• Incineration without precautionary measures
• Export to other countries
• Transfer to illegal collectors, processors
10. ILLEGAL ACTIVITIES

CAUSES:

- Financial gain
- Careless behavior
- Laziness
- Unclear legislation
- Lack of law enforcement
11. INDICATIONS OF ILLEGAL ACTIVITIES

- Discovery of serious pollution and/or violation of environmental laws
- Tips or reports
- Performing routine checks
- Spin-off of an earlier investigation
- Information developed through preliminary investigations, aimed at:
  - Certain industries
  - Certain waste categories
  - Chain of removal
11. INDICATIONS OF ILLEGAL ACTIVITIES

• Certain geographic areas (regional, national, international)

IMPORTANT FACTORS

• Environmental aspect
• Criminal code
12. EVIDENCE OF ILLEGAL ACTIVITIES

AT THE DUMPING SITE

• The waste is hazardous
• The hazardous waste has been processed in violation of the requirements set by the permit
  OR
• The hazardous waste is processed without a permit
• Who violated the law, and who else is involved

DURING THE TRANSPORT

• Hazardous waste was transported
• Hazardous waste was transported in violation of
12. EVIDENCE OF ILLEGAL ACTIVITIES

the requirements set by the permit

OR

• Hazardous waste was transported without a permit
• Who violated the law, and who else was involved

AT THE FIRM WHERE THE WASTE WAS PRODUCED

• Hazardous waste was transferred to another firm
12. EVIDENCE OF ILLEGAL ACTIVITIES

• This other firm does not have a permit for the transport and processing of hazardous waste
• Who violated the law, and who else was involved.
13. INVESTIGATION

AT THE DUMPING SITE

• Description of the situation at the site
  – Sketches
  – Photographs, video, film
  – Written report

• Collecting evidence
  – Taking samples
  – Gathering other pieces of evidence

• Hearing witnesses
13. INVESTIGATION

- Finding out if a permit was issued, and what requirements had to be met
- Investigation of suspect’s books/records and administration of other parties involved
- Interrogation of suspects

DURING THE TRANSPORT
- Hearing witnesses
- Finding out if a permit was issued, and what requirements had to be met
13. INVESTIGATION

• Investigation of suspect’s books/records and administration of other parties involved
• Interrogation of suspects

AT THE FIRM WHERE THE WASTE WAS PRODUCED

• Study of the production process
• Hearing witnesses
• Investigation of suspect’s books/records and administration of other parties involved
• Interrogation of suspects
14. AREAS OF ATTENTION

• Look before you leap
• Take care of personal protection
• Know the rules, authorities and one’s own limitations
• If needed, call for support and expert knowledge
• Prevent the destruction of evidence whenever possible
• Record as much as possible: photographs, video, film, tape, etc
• Design tactics first, then act
14. AREAS OF ATTENTION

• Records and books of suspects and others involved often produce more than what can actually be seen
• Ask colleagues and other authorities for advice
• Do not only look at the violation in question, but also take similar violations into account
• Take care one is not flooded with information (more does not always mean better)
15. OTHER FACTORS TO BE TAKEN INTO ACCOUNT

When determining the origin, use can be made of:

• Look and observe
• Witness statements
• Administrative
• Historical data

When asking samples:

• Quantity
• Location
15. OTHER FACTORS TO BE TAKEN INTO ACCOUNT

- Depth
- Mixtures
- Possible dangers

Do not take samples yourself unless you have received the appropriate training!!!
For Further Information ……

Visit the Basel Convention’s Website:

http://www.basel.int/