

International legislation related to transboundary movements of wastes

Name

E-waste training workshop

Date, Location, Country



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Contents

International Treaties

- Basel Convention
- Montreal Protocol

Regional Treaties

- Bamako Convention
- European Waste Shipments Regulation



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Basel Convention

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal Entered into force: 1992
- Currently 176 Parties
- Aim: to protect human health and the environment from adverse effects of wastes and ensure wastes are managed in an environmentally sound manner
- Required to be implemented into domestic legislation/ regulation



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Two pillars of the Convention

- **Minimization** of the generation of hazardous and other wastes
- Obligations to ensure the **environmentally sound management (ESM)** of hazardous and other wastes globally, including through a
 - Control system for transboundary movements of hazardous wastes based on the concept of **Prior Informed Consent (PIC)** procedure



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Wastes controlled by the Basel Convention

- **Hazardous wastes** listed in Annex I and exhibiting hazardous characteristics (Annex III e.g. explosive, flammable, oxidizing, poisonous, corrosive). Annexes VIII and IX further clarify what is understood by “hazardous wastes”.
- “**Other wastes**” listed in Annex II: wastes collected from households and residues arising from the incineration of household wastes.
- Wastes considered hazardous under the **domestic legislation** of a Party, as notified to the Secretariat under Article 3. See: www.basel.int/natdef/frsetmain.php



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E-waste classification (1)

Classification of WEEE

Hazardous – A1180 WEEE

- contains hazardous components
e.g. batteries, mercury switches, glass from cathode-ray tubes, activated glass, PCB capacitors
- or contaminated with hazardous components (Annex I)
e.g. cadmium, lead, polychlorinated biphenyl



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E-waste classification (2)

Classification of WEEE

Non-Hazardous – B1110



- WEEE that does not contain hazardous components or is not contaminated with hazardous components
- Electronic assemblies consisting only of metals or alloys
- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct re-use and not for recycling or final disposal.



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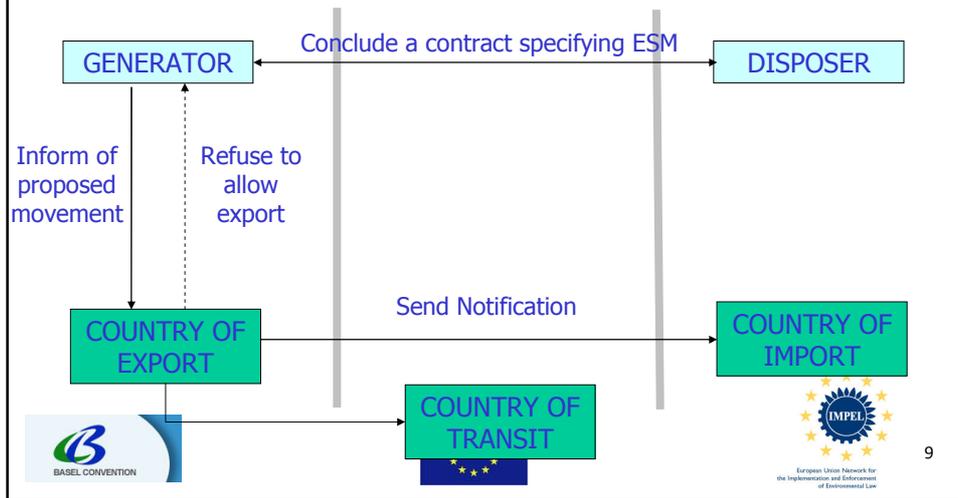
The PIC procedure

1. State of export to **notify** State(s) of transit / import, including contract specifying ESM;
 2. State of import to **respond**: consenting (with or without conditions) or denying to the import;
 3. Each person taking charge of the shipment to sign the **movement document**.
- No transboundary movement allowed between non-Parties (Exception: Art. 11 agreements)
 - No export to a Party that has prohibited the import of hazardous and other wastes
 - Forms and associated instructions
 - Vast majority of transboundary movements are expected to be legal trade

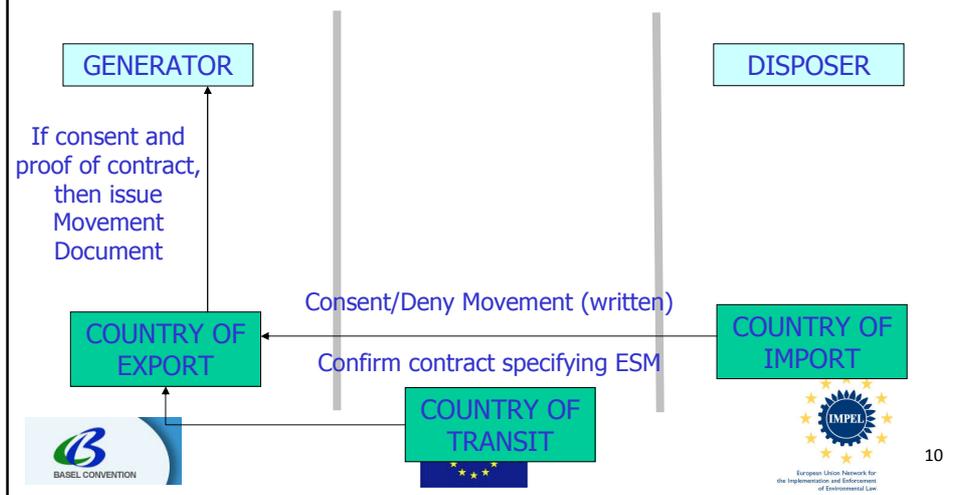


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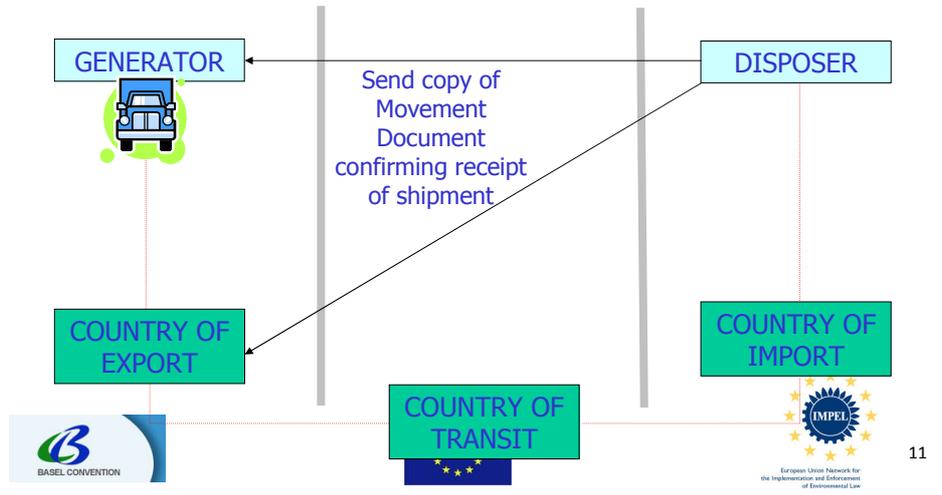
Basel Rules from Start to Finish Stage 1: Notification



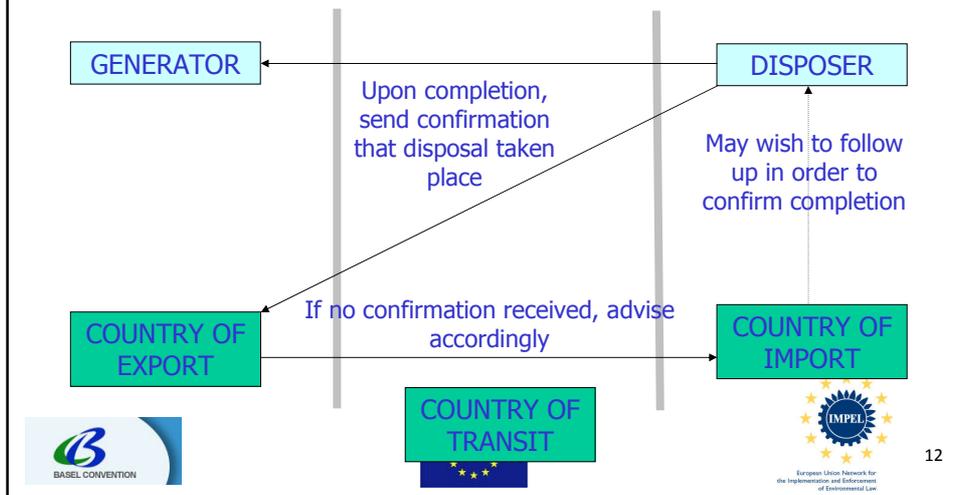
Basel Rules from Start to Finish Stage 2: Consent and Issuance of Movement Document



Basel Rules from Start to Finish Stage 3: Transboundary Movement



Basel Rules from Start to Finish Stage 4: Confirmation of disposal



Illegal traffic (1)

- Illegal traffic refers to any transboundary movement of BC wastes (Art. 9):
 - (a) **Without notification** to all States concerned;
 - (b) **Without the consent** of a State concerned;
 - (c) With consent obtained from States concerned through **falsification, misrepresentation, or fraud**;
 - (d) That does **not conform in a material way** with the documents;
 - (e) That results in **deliberate disposal** (e.g. dumping) of BC wastes in contravention of the Convention and of general principles of law



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Illegal traffic (2)

Parties are required to consider illegal traffic as a **crime** and to take appropriate legal, administrative and other **measures to implement/enforce** BC (art. 4.3, 4.4, 9.5).

How to deal, **practically**, with the wastes:

A. Illegal traffic due to conduct of the exporter or generator: the State of export shall ensure that the wastes in question are:

1. *taken back by the exporter or the generator or the State of export; or*
2. *are otherwise disposed of in accordance with the provisions of the Convention.*

B. Illegal traffic due to the conduct of the importer: the State of import shall ensure that the wastes are disposed of in an ESM (art. 9.2 and 9.3)



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Nairobi Declaration on the environmentally sound management of WEEE (2006)

- Promote awareness at all levels on the issue of e-waste, challenges and solutions, exchange of information and transfer of best available technologies
- Promote clean technology and green design for e-products
- Basel Convention is the main global instrument for guiding the environmentally sound management of hazardous e-waste
- Illegal traffic in e-waste is a serious concern
- Encourage national, regional and global comprehensive actions for the environmentally sound management of e-waste
- Improve waste management controls through the establishment of robust national policies, legislation and diligent enforcement, including producers' and traders' responsibilities as well as take-back and recycling schemes and their targets



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Technical guidelines on transboundary movement of e-waste

Guidance on the distinction between waste and non-waste

- For use EEE, the economic operation should provide:
 - ✓ *invoice and sale contract (specifying that EEE is for direct re-use and fully functional)*
 - ✓ *Evidence of evaluation/testing*
 - ✓ *Declaration that the EEE is not waste as defined by national law of countries involved in movement*
 - ✓ *Sufficient packaging*
- Recommended procedure for used equipment suitable for direct reuse without repair or refurbishment
- Recommended procedure for used equipment destined for repair or refurbishment



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Guidelines on mobile phones

- **Mobile Phone Partnership Initiative (MPPI):**
 - ✓ *Guideline on the Refurbishment of Used Mobile Phones*
 - ✓ *Guideline on the Collection of Used Mobile Phones*
 - ✓ *Guideline on Material Recovery and Recycling of End-of-Life Mobile Phones*
 - ✓ *Guideline on the Awareness Raising-Design Considerations*
 - ✓ *Guideline for the Transboundary Movement of Collected Mobile Phones*
 - ✓ *Guidance document on the environmentally sound management of used and end-of-life mobile phones*



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Guidelines on computing equipment

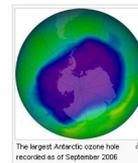
- **Partnership for Action on Computing Equipment (PACE)**
 - ✓ *Guideline on Environmentally Sound Testing, Refurbishment, and Repair of Used Computing Equipment*
 - ✓ *Guideline on Environmentally Sound Material Recovery and Recycling of End-of-Life Computing Equipment*
 - ✓ *Guidance on Transboundary Movement (TBM) of Used and End-of-Life Computing Equipment.*
 - ✓ *Overall guidance document*



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Montreal Protocol

An international treaty - came into force in 1989



Aim:

to protect the ozone layer by taking precautionary measures to control emissions of ozone depleting substances (ODS) such as CFCs

Prohibits import of items containing ODS – includes non-waste

e.g. EEE & WEEE Fridges containing R12, R13 refrigerant



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Bamako Convention



A treaty of the African nations - came into force in 1998

Aim:

to protect human health of the African population and the environment against adverse effects of hazardous waste

Incorporates Basel Convention but 2 main differences:

- Includes radioactive wastes
- All Parties must take measures to prohibit import of all hazardous wastes



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European Waste Shipments Regulation (1)

Regulation (EC) 1013/2006



Implements Basel Convention

- directly applicable – no need for national law

Specific to developing countries

- prohibits export of hazardous waste
- exports non-hazardous waste for recovery only
- slightly different hazardous & non-hazardous waste lists
 - Annex III – **Green list**, non-hazardous waste
 - Annex IV – **Amber list**, hazardous waste
 - Unassigned – no appropriate classification



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European WSR (2)

Annex III – non-hazardous waste list

B1110 does not apply but instead

- GC010 - Electronic assemblies consisting only of metals or alloys
- GC020 - Electronic scrap (e.g. printed circuit boards, electronic components and wires) and reclaimed electronic components suitable for base and precious metal recovery

No entry for whole non-hazardous WEEE



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European WSR (3)

Exports green list waste to developing countries

Response to European Commission questionnaire

4 control mechanisms:

- **Prohibited**
- **Notification (prior informed consent)**
- **No controls = Annex VII – information note**
- **Controls in destination under domestic legislation (Annex VII)**

No response = Notification



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Basel/European WSR



Example: Plastic to Morocco, Kenya and Egypt

- Basel: B3010 Non hazardous unless exhibit Annex III characteristics
- WSR: Non hazardous: green listed. Potentially permitted
- **Morocco** – if PET **Annex VII with local controls** (WSR)
- **Kenya** – **Notification** (WSR)
- **Egypt** – **Prohibited** (WSR)



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Basel/European WSR - continued

Example: Paper to Côte d'Ivoire, Ghana and Benin



- Is it paper? Properly sorted?
- Municipal Waste
- **Prohibited** to all developing countries (By WSR??)
- Basel: B3020. Non hazardous unless exhibit Annex III characteristics
- WSR: Non hazardous (green listed)
- Côte d'Ivoire – **Annex VII** (WSR)
- Ghana – **Notification** (WSR)
- Benin – **Prohibited** (WSR)



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Basel/European WSR

Example: Computers & Monitors to Nigeria



- Is it waste? – worth further investigation?
- If waste, TVs/Monitors with CRTs are hazardous – **prohibited**.
- Non-hazardous WEEE- **unassigned** – no code **Notification**
- Nigeria – all non-hazardous waste requires prior informed consent – **Notification** (according to WSR). According to Basel, no notification is necessary if non-hazardous waste)



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European WSR - continued

Waste or non-Waste - EU Correspondents' Guidance

EEE if:

Fully functional & direct reuse for original intended purpose

All EEE exports should be accompanied by the following:

- copy of the invoice & contract referring to direct re-use & fully functional
- evidence of evaluation/testing (proof functional) on every item
- a declaration made by the holder that none of the items are waste
- sufficient packaging to protect it from damage

If not = Waste



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Summary (1)

- Basel requires the use of PIC procedures and the implementation into domestic legislation
- Bamako prohibits the imports of all hazardous wastes
- Montreal Protocol prohibits import of ODS (EEE & WEEE)
- European WSR
 - ✓ prohibits export hazardous waste to developing countries
 - ✓ prohibits/requires notification for non-hazardous WEEE unless:
 - the non-hazardous WEEE is classified GC010 or GC020 AND
 - country of import has informed the EU that GC010, GC020 can be imported with information requirements



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Summary (2)

- Most African countries prohibit or require notification of GC010/GC020
- Whole or crushed non-hazardous WEEE is unassigned – requires notification
- Most illegal shipments of e-waste are made under the guise of ‘working items’
- Packaging and accompanying documentation are good indicators as to whether EEE, UEEE or E-waste
- Where illegal traffic is fault of exporter, exporter or country of export must take back the waste



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