

Intervention

Name

E-waste training workshop

Date, Location, Country



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Legislation & Technical expertise

Article 9(5) of the Basel Convention requires:

'Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic'

Officers involved in detaining illegal shipments must have certain technical expertise:

- such as interviewing and interrogation
- surveillance
- experience in the proper handling of evidence.

Communication & collaboration amongst agencies are vital



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Detention

Steps to follow when an illegal shipment is detained:

- inform the shipping line/shipping agent & the one responsible for the movement (f.i. the exporter or generator)
- the reasons why it is detained
- remove container to safe and secure storage
- examine paperwork
- determine where exported from – shipping line's can provide the port of export and sometimes even the point of loading
- identify who responsible for illegal shipment: importer, exporter, unknown
- inform your Basel competent authority (CA)



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Take back– exporter responsible

Write to the CA of export informing them of:

- the date and location of container
- name, address, contact details of the companies involved in export
- specific details of waste: classification, quantity, container number(s),
- name, address and contact details of the importer
- details of intended recovery operation (if known)
- copies of shipping documents
- photographic evidence
- why it is considered an illegal shipment of waste

Example of a letter requesting return provided in the manual

If the exporter is unwilling/unable to take back the waste, the CA of export must return waste



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Take back - continued

- The Basel Convention provides no specific procedure for taking back the shipment
- EU Waste Shipments Regulation requires notification for take back shipments
- Asking shipping line to return to point of loading, is a big risk as there is no tracking system – the waste could be 'lost'

Simplified notification – example of best practice within the EU

- Notification & movement forms to be completed
- Ask CA to issue forms with unique number
- No CA can object to the return shipment
- Helps track waste
- Ensures returned to site that can deal with waste

Whichever approach – communication vital



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Alternative disposal – Importer Responsible

- Importer must ensure disposal in an environmentally sound manner (ESM)
- If importer unwilling/unable, CA of import responsible
- Where unclear who responsible, CAs must co-operate to ensure recovery/disposal in ESM
- Most cases of illegal exports of e-waste detained & found to be exported from Europe are returned to Europe



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Continuity of Evidence

Critical for successful enforcement – points to document

- seal number (photograph before removal)
- who opened the container
- what was seen (including photographic evidence)
- whether the container was unloaded
- details of how waste was stored after unloading and during testing
- who reloaded the container (including photographic evidence)
- whether an additional container was used
- who re-sealed the container and the number of the new seal
- include photographic evidence



Photograph the seal number of any returned container to demonstrate that the seal has not been tampered with en route



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Financial Responsibility

1. The Basel Convention includes the option for competent authorities to require financial guarantees and bonds. These financial means can be used for example to cover costs for:
 - a forced return of the waste
 - disposal of the waste
2. These must be paid by relevant CA (import or export) if person responsible will not/cannot pay
3. Where responsibility unknown, CAs must co-operate



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Example – Fridges to Ghana from UK

Shipment stopped in Belgium by the Environmental Inspectorate June 2009 during routine inspection:

- Fridges & freezers – documents said working items
- Found items not working, items containing ODS and items without wires
- Documents detailed loaded in England
- Request to Environment Agency to return
- Inspection of load site - site not licensed
- Environment Agency worked closely with the shipping agent to arrange return
- February 2011 exporter convicted
- Sentenced to serve 280 hours of unpaid work & given a 6 months curfew order



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Prosecution

Must have domestic legislation in place to provide offences & penalties

- can prosecute where sufficient evidence
- relevant criminal court will impose appropriate sentence
- could include a fine, custodial sentence, unpaid work requirement, confiscation of assets, disqualification as a company director or other criminal sanction

Basic steps for investigation & prosecution

- Gather evidence
- Keep complete record of the investigation and evidence
- Prosecutor – considers evidence – must have continuity of evidence

Prosecutors must be consulted in the early stage of an investigation



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Information for you to Gather

- List relevant national legislation that can be used to detain and return illegal shipments
- List all relevant enforcement authority contacts that you will need to collaborate with when detaining & returning illegal shipments
- Identify the organisation that is the competent authority for the Basel Convention.
- Identify national legislation in your country that could assist in the prosecution of an illegal shipment



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