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The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

Objectives, Trade Measures, Compliance, Assistance, and Implementation Issues

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BACKGROUND OF THE BASEL CONVENTION (1)

- Illicit movements from developed to developing countries of 'hazardous wastes for 'treatment' or 'disposal'
- Hazardous waste disposal costs in developed countries were high, regulations becoming stricter
- Disposal costs in developing countries were low, few regulations, low standards and weak enforcement
- No international framework to control dumping



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BACKGROUND OF THE BASEL CONVENTION (2)

- 1970s Montevideo Programme of Environmental Law (waste regulation a priority)
- Guidelines for the environmentally sound management of hazardous wastes were adopted by UNEP in 1987 (The Cairo Guidelines)
- 1989 Adoption of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- May 5, 1992 Entry into force of the Basel Convention

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OBJECTIVES

- To protect human health and the Environment from the adverse of hazardous wastes
- to minimize the generation of hazardous wastes in terms of quantity and hazardousness;
- to dispose of them as close to the source of generation as possible with the environmental sound management approach;
- to reduce transboundary movement of hazardous wastes.

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STRATEGIC PLAN (1)

- The Basel Declaration on Environmentally Sound Management. Minimizing the generation of hazardous wastes and other wastes requires action at all levels.
- Activities for supporting Basel Declaration.
 - ✦ Prevention, minimization, recycling, recovery of hazardous wastes
 - ✦ Active promotion and use of cleaner technologies and production
 - ✦ Development and transfer of environmentally sound technologies Improve and promote technical capacity building

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STRATEGIC PLAN(2)

- Prevention, minimization, recycling, recovery and disposal of hazardous and other wastes subject to the Basel Convention.
- Active promotion and use of cleaner technologies and production
- Improvement and promotion of institutional and technical capacity-building, as well as the development and transfer of environmentally sound technologies, especially for developing countries and countries with economies in transition
- Further reduction of transboundary movements of hazardous and other wastes subject to the Basel Convention, taking into account the need for efficient management, the principles of self-sufficiency and proximity and the priority requirement of recovery and recycling
- Prevention and monitoring of illegal traffic

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STRATEGIC PLAN(3)

- Further development of the Basel Convention Regional Centers for training and technology transfer
- Enhancement of information exchange, education and awareness-raising in all sectors of society
- Cooperation and partnership at all levels between countries, public authorities, international organizations, the industry sector, non-governmental organizations and academic institutions:
- Development of mechanisms for compliance with and for the monitoring and effective implementation of the Convention and its amendments

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THE CONTROL SYSTEM OF TRANSBOUNDARY MOVEMENTS (1)

- Procedure of notification of a transboundary movement based on prior written consent
- State of Export obligation to:
 - Notify through the Competent Authority (with information contained in Annex VA) (possibility of general notification)
 - Not to allow the TM before written consent from import (and transit) State and before receiving information on contract between the exporter and the disposer (ESM)

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THE CONTROL SYSTEM OF TRANSBOUNDARY MOVEMENTS (2)

- State of Import obligation to:
 - Respond the notifier in writing, consenting with or without conditions, denying permission or requesting additional information
- State of Transit *may* consent, deny permission or request additional information (Parties and non-Parties)
- Movement document
- Duty to re-import (Art. 8)

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FLOW CHART OF THE NOTIFICATION AND AUTORISATION PROCEDURE (BASEL CONVENTION)

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Mechanism EXPORT NOTIFICATION PROCEDURE OF WASTE (MoE Indonesia)

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ESTIMATED QUANTITIES OF HAZARDOUS WASTES

Selected countries:	Quantity
China	9,896
Czech Republic	3,917
Denmark	281
Greece	287
Indonesia	17
Latvia	80
Morocco	6,543
The Netherlands	2,926
Russian Federation	107,060
Slovakia	1,400
Thailand	1,600
UK	4,846
Uzbekistan	26,442

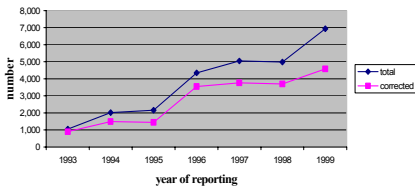
More than 400 million tonnes of hazardous wastes are generated worldwide each year
Source: UNEP Geo 2000

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SOME STATISTICS

According to the data collected through national reporting: the amount of waste subject to transboundary movement is increasing steadily.

Number of reported movements



COMPLIANCE AND ASSISTANCE

- Extent of Assistance given by the Convention to the parties for strengthening compliance
- Capacity Building through the SBC and BCRC (Indonesia, China, SPREP, Egypt, Russia, Slovakia, South Africa, Nigeria, Senegal, Trinidad and Tobago, El Salvador, Uruguay and Argentina).
- Basel Convention does not have a compliance mechanism

Basel Convention Regional Center BCRC

Objective:

to promote the implementation of the Basel Convention regarding environmentally sound hazardous wastes management among other member Countries.

Regional Center Activities, includes :

- Conducting seminars and training;
- Creating a data base and information exchange regarding hazardous waste management technology;
- Consultation service regarding hazardous waste management;
- Promoting cooperation with the private sector and other regional and Sub-regional centers.
- Conducting application studies such as waste recycling, waste reducing, etc;
- Facilitating field visitations.
- Promote waste minimization;
- Creating technological transfers on hazardous waste management assistance;
- Raising awareness on illegal transboundary movement of wastes prevention;

THE BAN AMENDMENT (1)

- DEC. III/1: Bans the movement of HW from Annex VII countries to non- Annex VII states (Annex VII = OECD, EC, Liechtenstein)
- Annex VIII (wastes characterised as hazardous by the BC) and Annex IX (wastes not characterised as hazardous by the BC)= adopted as part of the Convention

THE BAN AMENDMENT (2)

- Ban Amendment = prohibition of TM from States listed in Annex VII to States not listed
- It does not include:
 - TM from non-Annex VII States to Annex States
 - TM among non-Annex VII States
 - TM among Annex VII States
- Annex VII studies
- Not yet in force (37 ratifications)

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THE BAN AMENDMENT (3)

- Ban inconsistent with Art. XI of GATT, discriminatory (Annex VII),
- Role of bilateral agreements in the amendment.
- Right of Parties to prohibit the import of Hazardous wastes for disposal (Art. 4(1)(a) :approx. 57 Parties have implemented an import ban of hazardous wastes for disposal = unilateral measure?

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Ban Amendment

Indonesia is in the process of ratifying the Ban amendment by Presidential decree which will totally prohibit the import of Hazardous waste in Indonesia.

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PROHIBITION TO EXPORT

- No export to States with import prohibition (Art. 4(1)(b) or without written consent (c)
- No export to States if there is reason to believe the HW will not be managed in an environmentally sound manner (obligation to Export Art. 4(2)(e) and Import States (g)
- No export for disposal to the area of 60° South latitude (i.e. Antarctica) (India, Korea and USA)

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THE BASEL CONVENTION AND TRADE

Is the Basel Convention in conflict with the Multilateral trading system?

- Transboundary movement = trade?
- Hazardous wastes = goods or products?

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THE PROCESS UNDER THE DOHA DECLARATION

- Article 31 (i): identification of "specific trade obligations" in MEAs
- Criteria proposed by some Members:
 - mandatory
 - explicit
 - specific

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NON-PARTIES TREATMENT

No movements to non-Parties (unless Art. 11)
 Art. 4(5) No movements to non-Parties: may be in violation of MFN principle, Art. III and Art. XI of the GATT

- Possibility to conclude a bilateral agreement (Art. 11) *not less environmentally sound than Basel*
- 158 Parties to the BC-146 Members to WTO

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