

Subject: Illegal shipments and their return

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ECRAN Working Group: Enforcement and Compliance (ECENA)
 Activity 1.2.5 Trans Frontier Shipment of Waste (TFS)
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Legal framework	Definition of illegal traffic	Take back obligation
Basel Convention	Art. 9.1	Art. 9.2
Waste Shipment Regulation	Art. 2.35	Art. 22-25



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Take back obligations Basel Convention

Article 9, paragraph 2:

illegal traffic as the result of conduct on the part of the **exporter or generator**

Article 9, paragraph 3 and 4:

illegal traffic as the result of conduct on the part of the **importer or disposer**

But only for hazardous waste and other wastes as covered by the Basel Convention!



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Take back obligations Waste Shipment Regulation (art.22-25)

When a shipment cannot be completed as intended according to information provided in the notification and movement documents and/or contract:

- Waste taken back within 90 days* by notifier (art.2, 15). **Alternatives possible!**
- New notification or duly reasoned request by the initial CA of dispatch
- Use of movement document
- Costs for take back

Takeback when a shipment is illegal:

- Waste taken back, recovered or disposed of in 30 days*
- Who is responsible: Notifier or consignee?
- New notification or duly reasoned request by the initial CA of dispatch
- Use of movement document
- Costs for take back



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Article 24 (8)

“Articles 34 and 36 shall not apply in cases where illegal shipments are returned to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those Articles.”

Provisions in articles 34 and 36 shall be without prejudice to the take-back obligations as set out in Articles 22 and 24.



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Article 24 (8)

IMPEL Guide on Repatriation (draft May 2015):

“Where the country of dispatch is not a Party to the Basel Convention the take-back provisions of Article 9 of the Convention do not apply. International co-operation should be established to facilitate the environmentally sound management of the waste .”

Article 4(5) of the Basel Convention states that a Party shall not permit hazardous wastes to be exported to a non-Party or to be imported from a non-Party to the Basel Convention.

Article 11 encourages Parties to enter in to agreements with Parties or non-Parties regarding the shipment of waste. These agreements shall be no less environmentally sound than those provided for by the Convention.



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