

Subject:
Dealing with illegal shipments and their return

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Contents

- Detection of illegal shipments of waste
- Take back obligations
- Problems with the return of waste shipments
- Procedures
- Prosecution



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- Do you have any experience with the return of illegally shipped waste?



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Detection of illegal waste shipments

During the supervision of waste treatment sites

During inspections of storage facilities/dock storage

In the context of accidents or problems on sites

During checks of waste producer's documentation

On the basis of reports made to authorities or the police

During inspections made during transport (road/port/train)



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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**



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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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Some problems with sending back illegally shipped waste

- Lack of commonly agreed procedure
- Bancruptcy of the the owner of the waste
- Abandoned waste at the ports
- Waste is not allowed, but further shipped outside the control of the authorities
- Unclear who to contact
- Investigation may be time consuming
- Trail of involved companies and individuals
- Financial implications



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Key steps

- **Investigate and gather evidence!**
- **Contact the Competent Authorities!**
- **Share information concerning the actual return shipment!**



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Prosecution

- Illegal trafficking is considered a crime!
- Who is considered responsible for the illegal trafficking (jurisdiction)
- Gathering of evidence
- Who will lead the prosecution
- Sharing of evidence
- Different levels of penalties, sanctions, fines



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Further information

- IMPEL's Manual on the return of illegally shipped waste:
<http://impel.eu/projects/manual-on-the-return-of-illegal-shipments-of-waste> (currently being updated!)
- Basel Convention draft guidance on take back:
<http://www.basel.int/Implementation/LegalMatters/Compliance/Activities/IllegalTrafficTakeBackProvision/tabid/3195/Default.aspx>
- Basel Convention guidance for prosecutors:
<http://archive.basel.int/meetings/oewg/oewg6/docs/12e.pdf>



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