

**ECRAN Multi country Workshop on compliance with the legislation
on Trans Frontier Shipment of Waste**

TRANSFRONTIER SHIPMENT OF WASTE WITH CASE STUDY

Robert Rocek, B.Sc.Geot.,
univ. spec. oecoing.
Senior environmental inspector
Izmir, Turkey 25-26 May 2016

Definition Waste

Definition of waste - Art. 3/1 of DIRECTIVE 2008/98/EC
OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL of 19 November 2008 on waste :

'waste' means any substance or object which the holder
discards or intends or is required to discard

The **European Waste Catalogue (EWC)** contains the list of
wastes. The introduction to the list of wastes states that it is
a **harmonized list of wastes** which will be **periodically
reviewed**, but that, however, 'the inclusion of a material in
the list **does not mean** that the material is a waste in all
circumstances. Materials are considered to be waste only
where the definition of waste is met'.

An item becomes waste if;

- a) The owner discards it, or
- b) The owner intends to discard it, or
- c) The owner is required to discard it.

Even a fully functional item can become waste!

Since in the case of alleged illegal waste shipments the owner will always argue that he has no intention to discard the item a decision has to be made in a case by case basis, using common sense/arguing with “normal use”.

(See also ECJ, e.g. C-304/94, C-330/94, C-342/94 and C-224/95)

An item becomes waste if;

- If an item has entered a collection system for waste it is waste (until it is refurbished/prepared for direct re-use or it is notified as non waste in accordance with a regulation based on Article 5 of the WFD).
- If an item is sent for waste treatment, it becomes waste (e.g. a fully functional car destined for shredding/scrap-ping).
- If the further use is no longer allowed by law an item becomes wastes (e.g. some PCB-containing electrical equipment).

Combating illegal traffic

Why to prevent?



Situation in states of destination regarding environment and health manner

Combating Illegal Traffic

How to prevent?

- Awareness raising events,
- Legal deterrent (Penal Code etc.)
- Inspection of waste generators,
- Inspections of transports,
- Inspection of freight stations and consignees,



Legal Basis

Basel Convention

- Art. 9 (illegal traffic)
- Art. 8 (take back obligations)

Waste Shipment Regulation

- Art. 2 (illegal traffic)
- Art. 24 (take back obligations)
- Art. 50 (controls)

National Regulations

- Competences of inspectors
- Penals and administrative offences

Guidelines

- Correspondence
- IMPEL Manuals



Situation in Seaports

- Logistic bottleneck (water, road, rail)
- Culmination of shipments (import, export, transit)
- EU-border



Inspections in ports need close cooperation between competent authorities.



Situation in Seaports

Inspectors are faced to following obstacles:

- Legal situation (environment law vs. rules of free market and sea law)
- Economic pressure (lay days of vessels, handling of cargo)
- Security demands (restricted areas according to ISPS Code, restricted access to vessels)
- Health and safety requirements
- Increasing automatism (paperless port, remote controlled handling of containers)



Intentions of inspections in Seaports

Aims of inspections are,

- prevention: show companies involved that the responsible authorities do enforce the Regulations
- to check if all relevant documents are kept with the transport
- to ensure proper handling and storage
- to check the waste stream as laid down in the movement document and other relevant documents
- to track down violations/illegal transports

How to organize inspections in seaports?

- Cause for inspection (special waste stream, regular control action, hints on suspicious shipments)
- Involvement of other relevant authorities (custom, police, port authority, authorities of other Member States...)
- Involvement of other institutions (authorized experts, operator of the terminal)
- Equipment for safety and documentation
- Preparation for further measurements (blocking and safekeeping of containers or even vessels)

Inspections in Ports: Container Ships



Complex, cost and time consuming measurement, strong resistance from the terminal operator and the shipping agency are to be expected, high safety requirements.

Inspections in Ports: Container Terminal



Complex and costly depending on the size of the terminal, activity under time pressure, high safety standard must be guaranteed, cooperation with the terminal operator is requested.

Inspections in Ports: Gates



Safe and independent, clear situation and clear responsibilities, no time pressure, relatively easy to arrange, places for interim blocking are available

Inspections in Ports: Facilities



Long term strategy needed, easy to realize, overlapping with other competences like IPPC, work safety, tax fraud investigation

Inspections in Ports: Roads



Cooperation with other authorities needed (police, road control), complex because other legal aspects are touched (road safety of the lorry, driving time of the worker), high demand on human resources and safety requirements. Surprise effect short because of carriers networking

Helpful Tools for Inspection

- Camera,
- Protective clothing, disposal overall,
- Equipment for sampling
- Notebook with internet access
- Mobilphone
- Ladder

Samples and Documentation

Very important: entirely and lawfully!

Authorized and independent laboratories, experts and witnesses should be taken into account. Costs of measures have to be commensurated

Safety first !



Call the fire brigade if there are any doubts on safety or hazardousness regarding the goods



Sources of information

Sources that can provide information about the shipment:

- notification and movement document (TFS document)
- weighing slips
- invoices
- custom papers
- safety data sheets
- a statement of the export-authority that there are no objections for the transport
- questions to the captain / driver
- load plan of the vessel / vehicle



Checks based on the information

- compare the TFS document which is in your possession with the document which is in the possession of the lorry driver: do they tally?
- compare the amount of waste filled in block 17 of the TFS document with the amount as described on the weighing slips (if available)
- compare the description of the waste and the quantity on the TFS document with custom papers: do the right items tally?
- compare waste analyses (if available) with the description of the waste as mentioned on the TFS document

Checks based on the information

- compare the actual route with the route as mentioned on the TFS document
- is the actual date of the shipment reasonable when you look at the actual date of shipment as mentioned in box 21 of the movement document?
- look for changes, alterations, corrections, "Tipp-ex", etc.
- If no TFS document is available, other documents such as custom documents, invoices or safety data sheets can help you to identify the waste. The statement of the lorry driver can also provide you with the information you need.

Procedures and Actions

Different situations need different procedures and actions:

- there is no information at all
- the material could be waste
- it is waste, but the documents are not in order
- the documents are in order: questions could be asked about the load and samples can be taken
- when the inspection is finished, inform the competent authority of the country of export about the results of your inspection
- inform also the relevant competent authorities of the generator, the broker and the exporter

Follow up

- Information of competent authorities (national and international)
- Further research (e.g. at the place of origin and/or consignee)
- Justified formatting of all information
- Administrative rulings and measurements for safe interim storage, repacking and alternative disposal
- Official take back procedure (incl. Notification)
- Reimburesment
- Statistical preparation for annual reporting obligations to Basel Secretariat and EU-Commission

Procedure for the return of waste

- Take the necessary actions to hold up the transport for further investigation
- Collect the following information:
 - the country of waste generation
 - the amount, character and composition of the waste
 - information about the disposer, eventual other companies involved (holder, broker, transport company, etc.) and the processor of the waste
 - copies of waste analysis, weighing slips, invoices, etc.
- Contact the competent authority of the export country and make agreements on the procedures for returning the shipment

Practical examples

Mercedes truck destined for Nigeria; no model certificate



Mercedes 1624

Produced between
1958 – 1982;
sold in Europe till
1978;
- Minimum age of
the car: 30 years;

Car can be started

Roadworthy ?
Detailed inspection
of supporting parts



Conclusion

- No invoice, however the value can be estimated < 2.000 € due to the age and condition of the truck.
- Corrosion damage can not be repaired – only replacement of whole parts would be feasible.
- No (original) spare parts available (since this model was produced only till 1982)
- Without specific expertise it is obvious that
 - a) the truck is not roadworthy
 - b) and can not be repaired at reasonable costs.

Conclusion

There are still hazardous components like

- Diesel oil EWC 13 07 01*
- Waste oil EWC 13 02 05*
- Lead acid battery EWC 16 06 01*
- Due to the age probably asbestos containing break pads EWC 16 01 11*

Classification: hazardous waste EWC 16 01 04*

Used EEE or WEEE?



Monitors protected from damage by packaging – indicator for **SECOND HAND PRODUCTS**



Monitors without packaging, inadequately stored during transport - **HAZARDOUS WASTE**

Used EEE or WEEE?



Old compressor containing CFC: **R12** – no second hand product, no Green List– **HAZARDOUS WASTE**



Refrigerator with prohibited refrigerant: **R12** – no second hand product, no Green List waste - **HAZARDOUS WASTE**

Discussion



- **Waste** versus **non-waste** (second hand product)?
- Which WEEE scrap is **Green**, which is **Amber listed or non-listed (notification)**?
- Problems of **illegal shipments** (e.g. to Africa, Asia, illegal collection/transboundary shipment of bulky household waste by foreigners without license.....)



THAK YOU FOR YOUR ATTENTION!

Senior Environmental Inspector
 Robert Rocek, B.Sc. Geot.,
 univ. spec. oecoing.
 mob: 00385 91 2877179
 tel: 00385 42 301-684
 e-mail: robert.rocek@mzoip.hr