



## THE BASEL CONVENTION AND THE ROLE OF CUSTOMS

### Introduction to the Basel Convention

The Basel Convention pertains to the international trade of hazardous and other wastes. In the most recent statistics, the Secretariat of the Basel Convention estimated that 338 million tonnes of hazardous and other wastes were generated worldwide in 2001, while 8.5 million tonnes of waste are traded between countries yearly. But what does the common man have to do with hazardous waste? When your car is serviced and the mechanic drains the engine oil or transmission fluid, or you change your car battery, these are all hazardous (toxic) wastes. Have you considered how these and other hazardous wastes are disposed of and their effect on the environment?

This was a public concern in the 1980s when traders started shipping hazardous waste to less developed countries in Africa, Eastern Europe and other regions. The concerns were mainly about toxic ships sailing from port to port trying to offload their poisonous cargo. The problem was exacerbated as in some cases by toxic waste shipments being dumped indiscriminately, spilled accidentally or managed improperly, causing severe health and environmental problems. These incidents received international attention, and as a result the Basel Convention was negotiated under the auspices of the United Nations Environment Programme (UNEP).

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, referred to as "The Basel Convention", is one of the multilateral environmental agreements (MEAs) which Jamaica is a Party to. The negotiations for the Convention began in 1988; the text of the Convention was adopted on March 22, 1989 by the Conference of Parties in Basel, Switzerland, and entered into force on May 5, 1992. There are currently 189 Parties to the Convention. Customs and other border control agencies play an important role in enforcement because they are empowered to exercise control over goods entering or leaving their country or economic space. Additionally, they are to ensure the importation or exportation of the goods complies with national, regional and international law.



#### Did you know?

8.5 million tonnes of waste are traded between countries yearly

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Sri Lanka returned illegal waste to Britain (2020)

## Purpose and Objectives

The Basel Convention aims to promote environmentally sound management of exported and imported waste, especially in developing countries. The Convention establishes standards for the transboundary movement (i.e., import and export) and disposal of hazardous waste, solid waste, and municipal incinerator ash, including notice to and written confirmation from the receiving country prior to export. This procedure is referred to as 'prior informed consent' (PIC). Hazardous wastes under the Basel Convention are identified in

Annexes I, II, VIII and IX of the Convention. Specifically, the Convention's objectives are:

- (i) to reduce transboundary movement of hazardous and other wastes to a minimum consistent with their environmentally sound management
- (ii) to treat and dispose of hazardous wastes as close as possible to their origin, in an environmentally sound manner
- (iii) to minimize the generation of hazardous wastes and other wastes.

## Legal Obligations under the Basel Convention

Under the Basel Convention, Parties are legally bound by several restrictions to internationally trade hazardous and other wastes in order to achieve its objectives. Within these parameters, the Convention establishes a definition and list for hazardous and other wastes, such as those stated in Annex II. However, Parties may also establish their own national definition of hazardous waste to which the Basel Convention should apply. The Basel Convention includes the following restrictions for transboundary movement and disposal of hazardous and other wastes:

(i) Parties should not allow hazardous or other wastes to be exported to countries that either have prohibited the import of such wastes, or where there is reason to believe that the wastes will not be managed in an environmentally sound manner.

(ii) Generally, Parties are prohibited from exporting wastes to or importing wastes from non-Party countries

(iii) Trade in hazardous wastes is considered criminal if:

it occurs without proper notification to all States concerned

it occurs without the consent of a State concerned

consent for movement is obtained through falsification, misrepresentation or fraud

movement of the waste does not conform with the relevant documents

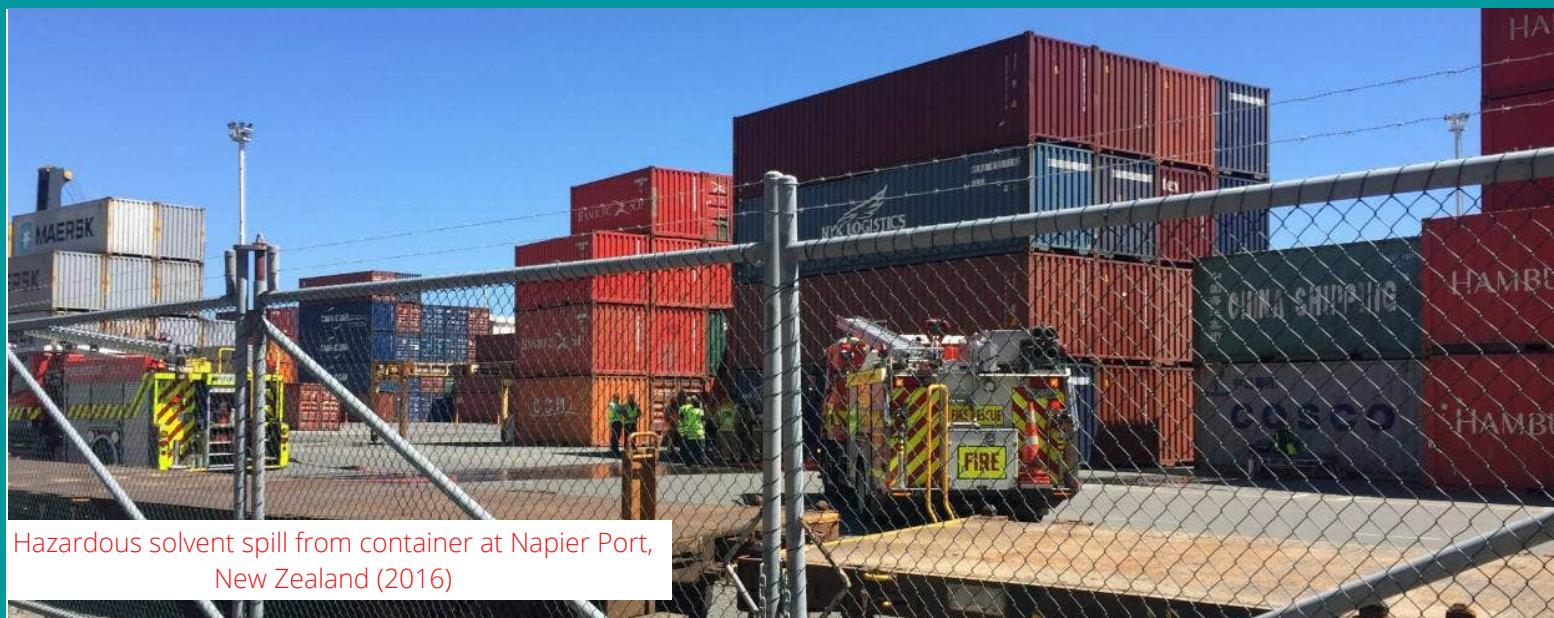
it results in deliberate disposal of hazardous wastes in contravention of the Basel Convention

### Did you know?

Wastes include healthcare wastes, used oils, used lead acid batteries, pesticides, additives in paint and plastics



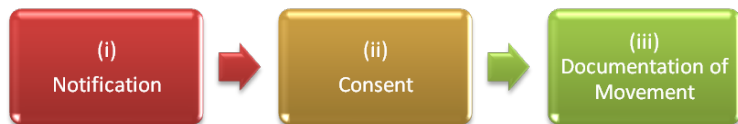
It must be noted that if the disposer or the exporter are deemed guilty of illegal trafficking of waste, the exporting State must take back the waste and/or ensure that the waste is disposed of in an environmentally sound manner.



Hazardous solvent spill from container at Napier Port, New Zealand (2016)

## Control of Transboundary Movements of Hazardous Wastes under the Basel Convention

The Basel Convention regulates the import and export of hazardous and other wastes. However, not all the wastes require the same extent of management or scrutiny. The wastes that are considered hazardous or wastes that may contain hazardous material (Annex II of the Convention) require special consideration. This special consideration is done through a procedure called 'prior informed consent' or 'PIC' under the Basel Convention system for control of cross-border movements. The procedure includes three (3) key elements:



### Notification

Notification is the first step in the PIC procedure. This step requires the notification of all Competent Authorities of all countries involved (i.e., countries of export, import, and transit) in the transboundary movement of hazardous waste.

The purpose of the notification is to provide the Competent Authorities of the countries concerned with detailed, accurate and complete information about the waste, the proposed disposal operation and any other details related to the proposed movement. A notification usually covers only one type of waste and may cover only one shipment. However, a notification may cover several shipments of the same type of waste over a maximum period of one year.

Before notification occurs, the generator of the waste in the country of export and the disposer of the waste in the country of import must conclude a contract for the disposal of the waste. Under the Convention this contract must ensure that the disposal is conducted in an environmentally sound manner. The Competent Authority in the country of export may object to the movement of the wastes, and may, therefore, refuse to transmit a notification, which is allowable in the spirit of the Convention. *(See Figure 1 for a specimen of the notification form under the Basel Convention)*

### Consent

Consent in writing is the second step in the PIC procedure. This step dictates that movement of the hazardous waste must not take place until the Competent Authorities in the countries of import and transit have provided written consent, with or without conditions. Before making a decision on consent, the Competent Authority of the country of import must confirm both the existence of a contract between the exporter and the disposer in the the country of import, as well as the exporter and the disposer. Critical components of the aforementioned contract are that it must be legally binding between the generator of the waste and the disposer of the waste, specifying environmentally sound management of the waste.

It should be noted that countries through which hazardous waste transit may waive their right to prior written consent.

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Chemical-carrying cargo ship sinking off Sri Lanka's coast after 13-day blaze (2021)

## Control of Transboundary Movements of Hazardous Wastes under the Basel Convention (cont'd)

### Consent (cont'd)

However, if the country of transit has consented to the movement, but the country of import has not, the country of export must not allow the shipment to leave until the exporter finds a country of import that consents to receive the shipment. Movements made without the consent of all the transit and importing countries are considered to be illegal. Once consent of the movement of the hazardous waste is provided in writing from the Competent Authorities in the importing and the transit countries, the Competent Authority of the country of export can proceed with the issuance of the Movement Document and authorise the shipment to start.

### Documentation of Movement

The Movement Document contains detailed information about the shipment and must accompany the consignment at all times, from the time of departure to the arrival of the consignment at the disposer.

The Movement Document provides relevant information on a particular consignment, e.g., the names of the exporter and importer, the type and quantity of waste, the date of shipment, and any special handling requirements. An example of a Basel Convention Movement Document is provided in *Figure 2*.

It is recommended that the duly completed notification should always accompany the Movement Document. Most countries accept a copy of the duly completed and fully authorised notification, enclosed with the Movement Document. However, some countries require an original notification, stamped and signed by the Competent Authority in the country of export, to accompany the Movement Document. To create a clear chain of custody of the movement of the wastes, each person who takes charge of the waste must sign the Movement Document upon receiving and/or delivering the wastes.

## The Role of the Jamaica Customs Agency

In Jamaica, the Competent Authority is the National Environment and Planning Agency (NEPA). However, given that the hazardous wastes are being traded across the borders of Jamaica, the Jamaica Customs Agency's mandate to facilitate trade, as well as its function to protect the borders of Jamaica would take effect. In particular, Customs officers and/or border control officials should verify that the appropriate notification and consent procedures have been followed. They should also verify that the wastes being transported are in accordance with the information provided in the notification and reflected on the movement document. This involves checking the documents, packages/containers of waste and possibly the contents of the containers.

The responsibility to verify applies to officers in the countries of export, transit and import. The verification process for Customs officers at the Jamaica Customs Agency (JCA) is detailed below:

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The Jamaica Customs Agency in action

## The Role of the Jamaica Customs Agency (cont'd)

	Formal verification/document checks	Material verification/physical checks
a.	Customs officers and/or border control officials need to verify that all the documents required are presented and correctly completed with all information required.	Following the verification of documents, a physical inspection of the shipment should be carried out. During this inspection officers should verify that the number of containers, their type, and their volume correspond to what is indicated on the movement document.
b.	Guidance on how movement and notification documents should be completed is available at the Basel Convention website ( <a href="http://www.basel.int/Portals/4/Basel%20Convention/docs/techmatters/forms-notification/mov/vCOP8.pdf">http://www.basel.int/Portals/4/Basel%20Convention/docs/techmatters/forms-notification/mov/vCOP8.pdf</a> ).	Officers should also verify that the containers are appropriately labelled
c.	-	To the extent possible without endangering safety and health, officers should verify the contents of the containers to ensure that they correspond with the permitted substances. If assistance is needed with verifying the composition of the waste, officers should contact the national Competent Authority, NEPA.
d.	-	Any discrepancies between documents, or between the documents and the actual shipment, may be evidence of illegal trafficking. In such cases, Customs should stop the movement of the waste and contact the national Competent Authority, NEPA, as soon as possible, so that further investigation can be carried out.

The Basel Convention is critical to monitor and control the transboundary trade of hazardous and other wastes to ensure they are treated and disposed of in an environmentally sound manner. In that regard, Customs officers at the Jamaica Customs Agency (JCA) play a border regulatory role to verify the documents and physically check the shipments being exported with hazardous material. This verification is done to ensure compliance with the established protocols of the Basel Convention. For shipments containing hazardous waste and/or those needing consent prior to shipping, the Customs officers at the port of export should ensure that the relevant documents are reviewed. These documents include the notification and movement forms. If the JCA and NEPA are satisfied with the validity and legitimacy of the shipment, the wastes may be released for onward movement and disposal to the country of import.

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**Figure 2 - Basel Convention's Movement Document for transboundary movements/shipments of waste**

1. Corresponding to notification No:		2. Serial/total number of shipments: /	
3. Exporter - notifier Registration No: Name: Address: Contact person: Tel: Fax: E-mail:		4. Importer - consignee Registration No: Name: Address: Contact person: Tel: Fax: E-mail:	
5. Actual quantity: Tonnes (Mg): m <sup>3</sup> :		6. Actual date of shipment:	
7. Packaging Type(s) (1): Special handling requirements: (2) Yes: <input type="checkbox"/> No: <input type="checkbox"/>		Number of packages:	
8.(a) 1 <sup>st</sup> Carrier (3): Registration No: Name: Address: Tel: Fax: E-mail:		8.(b) 2 <sup>nd</sup> Carrier: Registration No: Name: Address: Tel: Fax: E-mail:	
		8.(c) Last Carrier: Registration No: Name: Address: Tel: Fax: E-mail:	
----- To be completed by carrier's representative -----			
Means of transport (1): Date of transfer: Signature:		Means of transport (1): Date of transfer: Signature:	
9. Waste generator(s) - producer(s) (4,5,6): Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Site of generation (2):		12. Designation and composition of the waste (2):	
10. Disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/> Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Actual site of disposal/recovery (2)		13. Physical characteristics (1):	
11. Disposal/recovery operation(s) D-code / R-code (1):		14. Waste identification (fill in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (1): (ix) UN class (1): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
15. Exporter's - notifier's / generator's - producer's (4) declaration: I certify that the above information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantee is in force covering the transboundary movement and that all necessary consents have been received from the competent authorities of the countries concerned. Name: Date: Signature:			
16. For use by any person involved in the transboundary movement in case additional information is required			
17. Shipment received by importer - consignee (if not facility):		Date: Name: Signature:	
TO BE COMPLETED BY DISPOSAL / RECOVERY FACILITY			
18. Shipment received at disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/> Date of reception: Quantity received: Tonnes (Mg): Accepted: <input type="checkbox"/> Rejected*: <input type="checkbox"/> Approximate date of disposal/recovery: m <sup>3</sup> : Disposal/recovery operation (1): Name: Date: Signature:		19. I certify that the disposal/recovery of the waste described above has been completed. Name: Date: Signature and stamp:	
FOR USE BY CUSTOMS OFFICES (if required by national legislation)			
20. Country of export - dispatch or customs office of exit The waste described in this movement document left the country on: Signature: Stamp:		21. Country of import - destination or customs office of entry The waste described in this movement document entered the country on: Signature: Stamp:	
22. Stamps of customs offices of transit countries			
Name of country: Entry: Exit:		Name of country: Entry: Exit:	
Name of country: Entry: Exit:		Name of country: Entry: Exit:	

## Additional Resources for the Basel Convention

The information in this Trade Beat provides guidance concerning how Customs officers should treat with the Basel Convention. For further information, you may access the the following additional resources:

- The Basel Convention website is: [www.basel.int](http://www.basel.int)
- A list of Parties to the Basel Convention:  
<http://www.basel.int/Countries/StatusofRatifications/tabid/1341/Default.aspx>
- A list of national Competent Authorities for the Basel Convention:  
<http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>
- The text of the Basel Convention, including the Annexes with the lists of wastes (*select English*):  
<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>
- The Basel Convention Secretariat has produced a Training Manual on Illegal Traffic for Customs and Enforcement Agencies:  
<http://www.basel.int/Portals/4/Basel%20Convention/docs/legalmatters/illegtraffic/trman-e.pdf>

To report any suspected breaches or for any queries, you may contact the Environment Officer at the National Environment and Planning Agency at the information provided below:

Address: 10 Caledonia Avenue, Kingston 5

Telephone: (876)754-7540

Fax: (876)908-1391

Email: [competentauthority@nepa.gov.jm](mailto:competentauthority@nepa.gov.jm)

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## The International and Industry Liaison Branch



The International and Industry Liaison Branch (IILB) is committed to raising awareness on topics relating to international trade, as well as issues concerning the Caribbean Community which affect our internal and external stakeholders. Our quarterly newsletter seeks to highlight global trade topics and their importance to customs administrations worldwide, specifically as it relates to the Jamaica Customs Agency (JCA).

As we realize our vision of becoming a modern customs administration delivering excellent service, we recognize the importance of knowledge transfer in delivering our objectives and use this forum as our way of contributing to the vision of the JCA.

The IILB is located at the JCAs Head Office, Myers' Wharf, Newport East, Kingston, and our officers are available to respond to your trade-related queries. You may contact us via email at [iilu@jca.gov.jm](mailto:iilu@jca.gov.jm)

**Prepared by: The International and Industry Liaison Branch**