

## **The Basel Convention**

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is an international treaty which is administered by the United Nations Environment Programme.

It was adopted in Basel in March 1989, and entered into force in May 1992. As of today, there are 175 Parties.

### **Objective**

The goal of the Convention is to protect human health and the environment from the adverse effects which may result from improper management of hazardous and other wastes.

This includes handling, transporting, storing, treating, processing and the disposal of these wastes.

### **The Convention is based on two pillars;**

- A control regime for the transboundary movements of hazardous wastes, and
- The promotion of the environmentally sound management (ESM) of hazardous wastes. The principle of ESM centres around – the treatment and disposal of hazardous wastes as close as possible to their source of generation, – the reduction of transboundary movements of hazardous wastes and other wastes to a minimum consistent with their environmentally sound management and – the minimization of the generation of hazardous wastes

### **Why the Basel Convention was created...**

The cross-border transport of hazardous wastes seized the public's attention in the 1980s.

- Tighter environmental regulations in industrialized countries.
- "Toxic traders" searching for cheaper solutions started shipping hazardous wastes to Africa, Eastern Europe and other regions
- High profile chemical accidents (e.g Seveso and subsequent mismanagement of wastes)
- To eliminate these practices, the Basel Convention was negotiated under the auspices of the United Nations Environment Programme in the late 1980s. It was adopted in 1989 and entered into force in 1992.

### **Conditions for transboundary movements**

Under the Basel Convention, a TBM means any movement of hazardous wastes or other wastes:

- from an area under the national jurisdiction of one State
- to or through an area under the national jurisdiction of another State, or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement.

Parties are under an obligation to take the appropriate measures to ensure that TBM of hazardous wastes and other wastes are only allowed if one of the three following conditions is met:

- the State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an “environmentally sound manner”; or
- the wastes in question are required as raw material for recycling or recovery industries in the State of import; or
- the TBM in question is in accordance with other criteria decided by the Parties (such criteria will normally be found in the decisions adopted by the Conference of the Parties). In all cases, the Convention requires that the standard of “environmentally sound management” (ESM) of hazardous wastes or other wastes is met.

Ministries of Environment and Environment Agencies are normally the best sources of scientific and technical information of this nature, and the Secretariat of the Basel Convention also publishes technical guidelines on various waste streams providing guidance on best practices for ESM as defined by the Parties. In addition to these conditions, the Basel Convention specifies instances in which Parties may restrict TBM and instances in which Parties must restrict TBM. Such restrictions may apply to the export or to the import of hazardous wastes and other wastes. The Convention further clarifies the consequences of such restrictions. Specifically:

Parties have the right to prohibit totally or partially the import of hazardous wastes or other wastes into their jurisdiction for disposal. The prohibition of importation can be a unilateral act by a Party, which must be notified to all Parties through the Secretariat, or it can be embedded in an international agreement, for instance the 1991 Bamako Convention on the Ban of the Import Into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa which prohibits the import of hazardous wastes into Africa from non-contracting Parties. Notifications of import restrictions and notifications of agreements transmitted by Parties to the Secretariat can be found on the website of the Basel Convention.

**• If a Party restricts or prohibits the import of hazardous wastes or other wastes, other Parties must respect this restriction or prohibition.** In line with the Convention, Parties must prevent and not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/ or political integration organization that has, by legislation, prohibited all imports, or to a Party that has exercised its right to prohibit totally or partially the import of hazardous wastes or other wastes into its jurisdiction for disposal.

**• A Party must not allow exports to a State when it has reason to believe that the wastes in question will not be managed in an environmentally sound manner.** For example, if the proposed destination does not have the appropriate technology to recycle electronic equipment in an environmentally sound manner, the State of export must not allow a shipment described as used computers for recycling to be shipped there.

**• Parties may decide to limit or ban the export of hazardous wastes or other wastes to other Parties.** At its third meeting in 1995, the Conference of the Parties decided to amend the

Convention by inserting a new Article 4A commonly referred to as the Ban amendment that prohibits certain TBM under specific conditions.

- Parties are prohibited from exporting wastes falling within the scope of the Convention for disposal within the area south of 60° South latitude, whether or not such wastes are subject to a TBM.
- A TBM should not occur with a non-Party. Parties shall not permit hazardous and other wastes to be exported to a non-Party or to be imported from a non-Party, unless an agreement or arrangement regarding TBM is in place that provides for the ESM requirement to apply.
- TBM can take place through transit States that are not Parties to the Convention. However in that case, some elements of the notification procedure apply *mutatis mutandis* to such TBM: the generator, exporter or State of export is required to notify the competent authority of the State of transit of any proposed TBM.

In addition, the Basel Convention requires that only persons authorized or allowed to transport or dispose of wastes undertake such operations, and that wastes subject to a TBM be packaged, labelled and transported in conformity with generally accepted and recognized international rules and standards.

### **Procedures for transboundary movements**

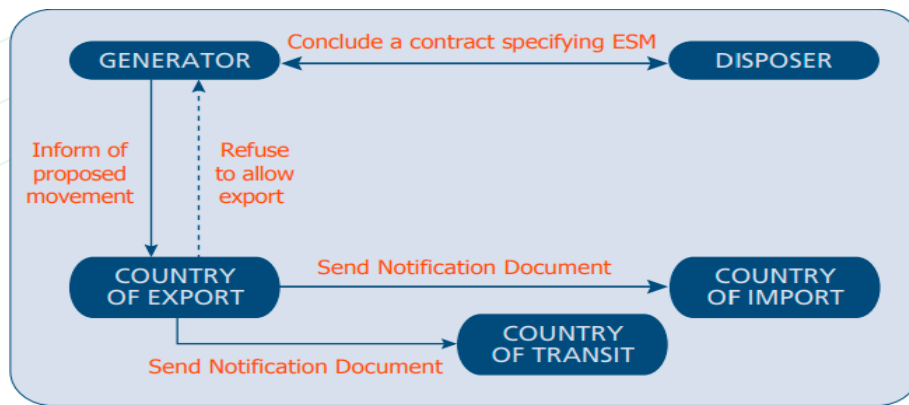
The Basel Convention contains a detailed Prior Informed Consent (PIC) procedure with strict requirements for TBM of hazardous wastes and other wastes. The procedures form the heart of the Basel Convention control system and are based on four key stages

(1) notification; (2) consent and issuance of movement document; (3) transboundary movement ; and (4) confirmation of disposal.

#### **Stage 1: Notification**

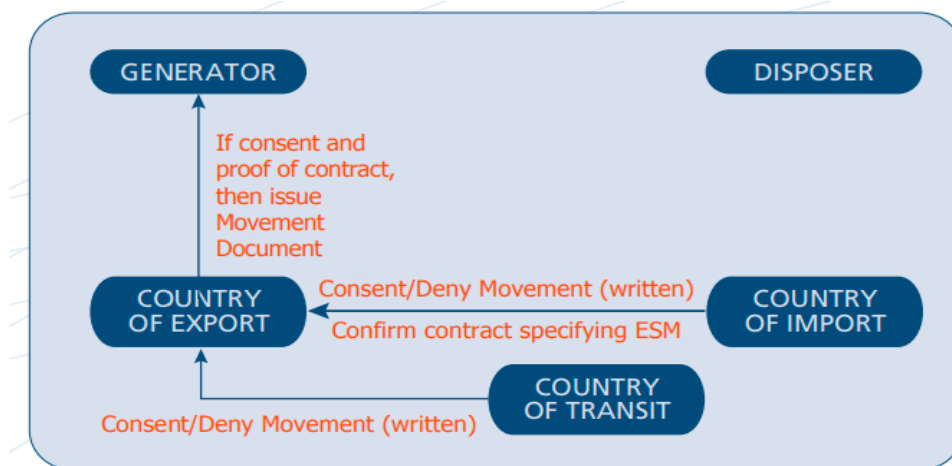
The purpose of stage 1 is for the exporter to properly inform the importer of a proposed transboundary movement of hazardous wastes or other wastes. The exporter/generator of the wastes must inform the Competent Authority (CA) of the State of export of a proposed shipment of hazardous or other wastes. Before the shipment can be allowed to start the generator and the disposer 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 CA of the State of export assesses the information received from the exporter/generator and may refuse to allow the export. Such a decision is perfectly in order with the spirit of the Convention.

If the CA of the State of export has no objection to the export, it informs - or requires the generator/exporter to inform - the CA of the States concerned (State of import and State(s) of transit) of the proposed movement of hazardous wastes or other wastes by means of a “notification document”. The purpose of the notification is to provide the CA of the countries concerned with detailed, accurate and complete information on the waste itself, on the proposed disposal operation and other details relating to the proposed shipment. This document must contain the information specified in Annex V A of the Convention, and must be in a language that is acceptable to the State of import and State(s) of transit



## Stage 2: Consent & Issuance of movement document

The purpose of stage 2 is to ensure that the importer agrees to the proposed transboundary movement and that the appropriate documentation accompanies the shipment of hazardous wastes or other wastes



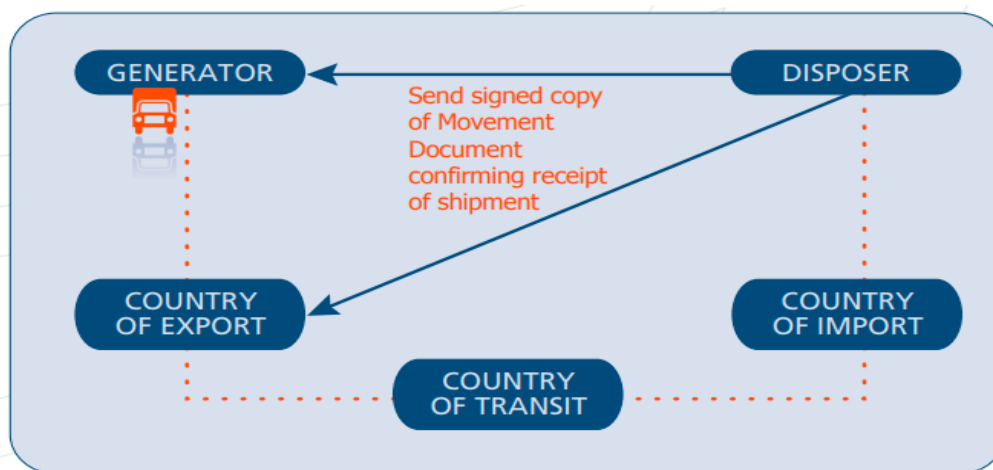
On receipt of the notification document, the CA of the country of import must provide its written consent (with or without conditions) or denial (can ask for further clarification). The CA of the country of import must also confirm to the notifier the existence of a contract between the exporter and the disposer. One of the most important conditions of the notification procedure is the verification of the existence of a legally binding contract between the generator and the disposer, specifying ESM of the wastes in question.

The CA of any country of transit must acknowledge promptly receipt and may provide its written consent to the country of export (with or without conditions) or denial within 60 days. Countries of transit may decide not to require prior written consent, in which case the country of export may allow the export to proceed if it does not receive any response from that state of transit after 60 days.

Once the relevant CAs have established that all the requirements of the Convention have been met and have agreed to the movement, the CA of the country of export can proceed with the issuance of the movement document and authorize the shipment to start. The movement document contains detailed information about the shipment and must accompany the consignment at all times at the time of departure to the arrival of the consignment at the disposer.

### Stage 3: Transboundary movement

Stage 3 illustrates the various steps that need to be followed once the transboundary movement has been initiated and until the wastes have been received by the disposer. The movement document provides relevant information on a particular consignment, for example, on all carriers of the consignment, which customs officers it has to pass through, the type of waste and how it is packaged. It should also provide accurate information on the authorizations by the CAs for the proposed movements of wastes.

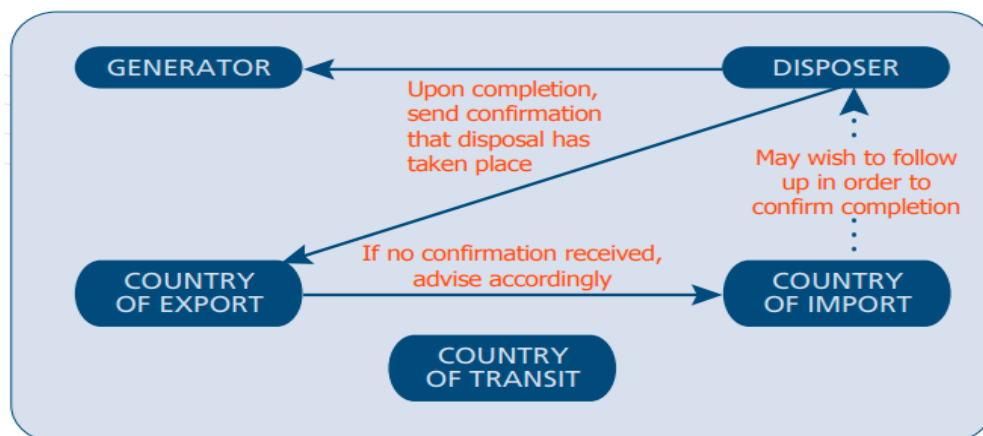


The Conference of the Parties has recommended that the duly completed notification should always accompany the Movement document.

Most countries accept a copy of the duly completed and fully authorized notification to be enclosed with the movement document. However, some countries require that an original notification, stamped and signed by the CA, shall always accompany the movement document.

### Stage 4: Confirmation of disposal

The purpose of stage 4, the final stage in the TBM procedure, is for the generator and country of export to receive confirmation that the wastes moved across borders have been disposed of by the disposer as planned and in an environmentally sound manner. The Convention requires a confirmation from the disposer when the disposal has taken place, according to the terms of the contract, as specified in the notification document. If the CA of the country of export has not received the confirmation that disposal has been completed, it must inform the CA of the country of import accordingly.



## Basel Ban Amendment

After the initial adoption of the convention, some least developed countries and environmental organizations argued that it did not go far enough. Many nations and NGOs argued for a total ban on shipment of all hazardous waste to LDCs. In particular, the original convention did not prohibit waste exports to any location except [Antarctica](#) but merely required a notification and consent system known as "prior informed consent" or PIC. Further, many waste traders sought to exploit the good name of recycling and begin to justify all exports as moving to recycling destinations. Many believed a full ban was needed including exports for recycling. These concerns led to several regional waste trade bans, including the [Bamako Convention](#).

Lobbying at 1995 Basel conference by LDCs, [Greenpeace](#) and several European countries such as Denmark, led to the adoption of an amendment to the convention in 1995 termed the **Basel Ban Amendment** to the Basel Convention. The amendment has been accepted by 86 countries<sup>[10]</sup> and the European Union, but has not entered into force (as that requires ratification by three-fourths of the member states to the convention). On 6 September 2019, Croatia became the 97th country to ratify the amendment which will enter into force after 90 days on 5 December 2019. The amendment prohibits the export of hazardous waste from a list of developed (mostly [OECD](#)) countries to developing countries. The Basel Ban applies to export for any reason, including [recycling](#). An area of special concern for advocates of the amendment was the sale of ships for salvage, [shipbreaking](#). The Ban Amendment was strenuously opposed by a number of industry groups as well as nations including Australia and Canada. The number of ratification for the entry-into force of the Ban Amendment is under debate: Amendments to the convention enter into force after ratification of "three-fourths of the Parties who accepted them" [Art. 17.5]; so far, the parties of the Basel Convention could not yet agree whether this would be three-fourths of the parties that were party to the Basel Convention when the ban was adopted, or three-fourths of the current parties of the convention [see Report of COP 9 of the Basel Convention]. The status of the amendment ratifications can be found on the Basel Secretariat's web page.<sup>[11]</sup> The [European Union](#) fully implemented the Basel Ban in its **Waste Shipment Regulation (EWSR)**, making it legally binding in all EU member states. Norway and Switzerland have similarly fully implemented the Basel Ban in their legislation.

In the light of the blockage concerning the entry into force of the Ban Amendment, Switzerland and Indonesia have launched a "Country-led Initiative" (CLI) to discuss in an informal manner a way forward to ensure that the trans boundary movements of hazardous wastes, especially to developing countries and countries with economies in the transition, do not lead to an unsound management of hazardous wastes. This discussion aims at identifying and finding solutions to the reasons why hazardous wastes are still brought to countries that are not able to treat them in a safe manner. It is hoped that the CLI will contribute to the realization of the objectives of the Ban Amendment. The Basel Convention's website informs about the progress of this initiative.<sup>[12]</sup>