



Underused information exchange mechanisms in case of dealing with illegal waste shipments

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Work Package 4: International Operational Networking in EU- Asia
Pacific

Activity 4.1: Assessment of information exchange mechanisms

Deliverable 4.2: Underused information exchange mechanisms in case
of dealing with illegal waste shipments



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1. INTRODUCTION

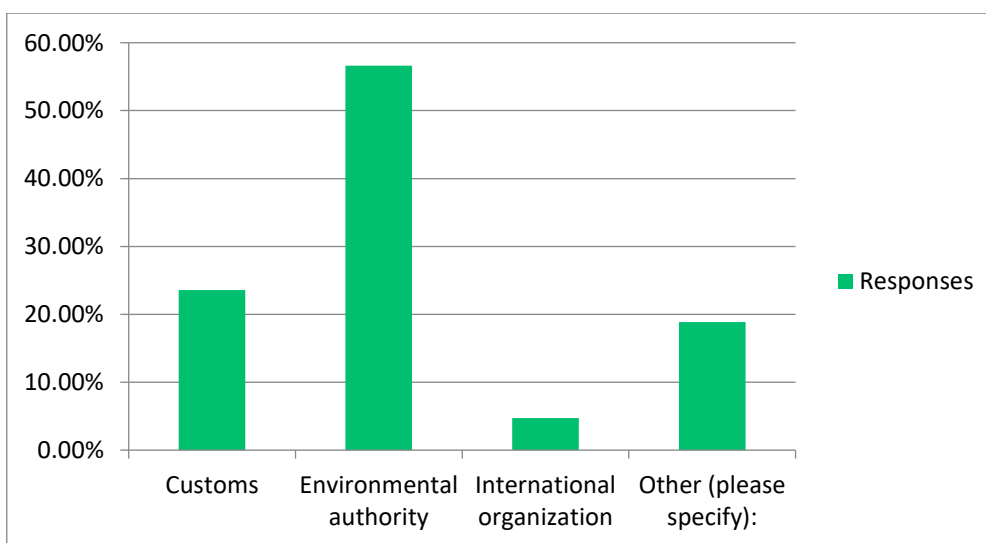
Work package 4 of the WasteForce project (<https://www.wasteforceproject.eu/>) aims at supporting international operational networking between the EU and the Asia-Pacific region through information-sharing activities and dedicated training materials. The project will contribute to build stronger relationships among key stakeholders in the cross-border waste chain that can continue after the project.

WP4 will result in four deliverables:

- Deliverable 4.1 provides an inventory of needs and possibilities related to the information exchange mechanisms;
- The current deliverable 4.2 is an assessment of information exchange mechanisms for international operational networking;
- Deliverable 4.3 provides guidance on prosecuting Waste Crime; and
- Deliverable 4.4 is a collection of good practices to support the EU-Asia collaboration, especially on the repatriation of illegal waste shipments.

In 2019, a confidential survey was developed by the United Nations Environment Programme (UNEP) to provide an inventory of needs and possibilities regarding the current mechanisms for exchange of information on illegal trade in waste, in particular between EU countries and Asian Pacific countries. The survey was sent to 307 respondents representing 39 countries - including two African countries - as well international organizations, such as Interpol and the World Customs Organization (WCO).

The majority of the respondents (60 persons) were working for Environmental authorities; 25 for Customs; 5 for international organizations; and the remaining 16 for Police and Border Guard services.



The survey shows also that many participants have extensive experience in dealing with illegal shipments as well on import, transit and export. Most of the times, information on these illegal shipments is being exchanged amongst authorities within the country, while information exchange across borders is very limited. When it happens, it is often between authorities with the same background such as police to police, customs to customs, environmental authorities to environmental authorities, etc.

According to the survey, there is also another need for international information exchange. In particular, when waste is being shipped between different continents there is a strong need to get confirmation that the treatment facility mentioned in documents is actually existing, is operational and licensed to treat the waste in question. A lot of waste can be shipped without Prior Informed Consent (PIC) procedure, because they are not under the scope of the Basel Convention, for instance waste tyres and plastic waste (this will change with the entrance into force of the 2019 Basel Convention Annexes Amendments on 1 January 2021).¹ When the PIC procedure is not mandatory, information on existence or the legal status of receiving or treatment facilities is unknown or not verified; to the contrary to what happens when the PIC procedure needs to be followed.

The results of the survey are analysed and presented into details in deliverable 4.1. The present deliverable 4.2 builds on this analysis and describes the existing information exchange tools or mechanisms; the most frequently exchanged kind of information; and the authorities involved. A suggestion is made on which tool should be used, in which particular situation and in a secured way when needed.

¹ For more information see:
<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>

2. DIFFERENT PROCEDURES FOR WASTE SHIPMENTS

When waste is being shipped across borders many players are involved. For the purpose of this report, we refer only to the most common stakeholders from governmental bodies.

For transboundary movements of waste certain international regulations apply.² On a global level the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal³ sets rules and procedures for the movements of hazardous wastes (i.e. wastes that are considered to be hazardous by national legislation of countries involved) and for other wastes as specified in the Convention, for instance household waste. Such movements of waste only can be shipped when a Prior Informed Consent Procedure (PIC) is used.

In the European Union, the Basel Convention and the OECD Decision C(2001/107)⁴ are implemented through the European Waste Shipment Regulation (WSR).⁵ The WSR also implements the “Ban Amendment”⁶ related to all exports of hazardous waste from the EU to non- OECD countries. As a result, in the EU shipments of hazardous waste in general follow the Prior Informed Consent procedure. Shipments of wastes sent for disposal within the EU also need to follow PIC procedures. Shipments of non-hazardous waste sent for recovery are also regulated by the WSR. For such shipments general information requirements applies. Export of non-hazardous waste outside the EU and destined to non-OECD countries is regulated in EU Regulation 1418/2007.⁷ Requirements for such shipments vary from country to country: it can be prohibited to ship a specific type of waste to a particular country; or the application of the prior informed consent procedure can be requested; or the waste can be shipped accompanied by general information.

2.1 PIC procedure

The PIC procedure is based on the Basel Convention and information regarding such PIC procedure is exchanged between Basel Convention Competent Authorities and Focal points.⁸ The information is related to specific waste shipments and is shared to receive consent for those transports. All countries involved in the shipment, export-transit-import, need to give consent before the shipment can take place.

During such procedures it becomes clear:

- which companies are involved;

² For an detailed overview of the existing international legal framework please visit the WasteForce project Toolkit on Shipment of Waste available at: <https://www.impel-prevent.eu/>

³ For more information please visit: <http://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx> and the text of the Convention is available at:

<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>

⁴ See <http://www.oecd.org/environment/waste/30654501.pdf>

⁵ See https://www.impel-prevent.eu/module/legislative-landscape/#The_Waste_Shipments_Regulation

⁶ See <http://www.basel.int/Implementation/LegalMatters/BanAmendment/Overview/tabid/1484/Default.aspx>

⁷ See <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32007R1418>

⁸ For the official contacts (Competent Authorities and Focal Point) see:

<http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

- what kind of waste is involved (according to the application);
- if that waste is allowed to be imported in the destination country;
- if the facility in the destination country is able and allowed to treat the waste;
- if the other companies involved in the shipment fulfil other necessary requirements, e.g. if they are a registered broker or carrier etc.

Depending on national legislation, during a PIC procedure a financial guarantee can be requested to ensure that in case of irregularities the waste can be treated in an environmentally sound manner. In the EU, such financial guarantee is mandatory. PIC procedures can be followed for shipments entailing only one transport or in cases when the waste is shipped through multiple transports. In the EU, there is an additional rule for shipments using a PIC procedure. Before the actual shipment takes place, every shipment needs to be pre-notified to all involved Competent Authorities three days⁹ before the shipment starts.

2.2 Other or general information requirements

In case waste is shipped without a PIC procedure, it is challenging for the authorities to verify if such shipment is being shipped according to international and national laws. As there is no information exchange prior to the shipment, and authorities are not notified for any transport, it is hard to find out if involved companies have the necessary permissions to trade and transport such waste. It is also difficult to find out if the receiver is allowed and able to treat the waste at destination, as stated in the documents, or if any other requirement is fulfilled such as pre-shipment inspection or import licenses.

Regardless if the waste is shipped under PIC or with general information requirements, in any case it is relevant to know what kind of waste is actually shipped. Is it actually the same one described in the documents? Or is it something else, contaminated, mixed, etc.?

⁹ In case of waste shipments to be imported in, or transit through, or exported outside the European Union based on WSR 1013/2006.

3. DIFFERENT AUTHORITIES, DIFFERENT NEEDS

As mentioned above, during the PIC procedure information regarding a specific shipment is shared between authorities. The Competent Authority in the exporting country forwards the notification received from the exporter to the Competent Authority in the importing country and, when involved, to the transit countries. The information exchange mostly takes place via email.

The exchange of information during PIC procedures will not be further described in this document, as the focus of this document is about the use of information exchange mechanisms for sharing information related to inspections and the results of inspections.

To define what kind of information can be exchanged and which channel or mechanisms should be preferably used, it is important to acknowledge the different kind of information, objectives or reasons why it is shared, and which tools can be used for that exchange. Often, which tool or mechanism will be the best at that moment and for that purpose will differ from situation to situation, from case to case etc. It also depends on the moment in which the information is being shared, whether before, during or after the actual shipment.

3.1 Information exchange tools

The main existing international tools, which can be used for information exchange regarding waste shipments, are listed below under the relevant responsible organization. The list is not complete, but the mentioned tools can be considered as the most relevant ones.

World Customs Organization (WCO)

The WCO has a Customs Enforcement Network Communication platform (CENcomm). It is a web-based platform for a closed user group to exchange and disseminate information in a secure environment via encrypted channels, in real time, for the duration of an operation or project. CENcomm has a number of programme specific applications. [ENVIRONET](#) is one of them and is a real-time communication system for information exchange in the area of environmental issues among Customs administrations, competent national authorities, international organizations, and their regional networks. Another CENcomm application is [CONTAINERCOMM](#), which is being used between risk profiling teams, the so called 'Port Control Units' under the Container Control Programme. This Programme is a joint initiative of the WCO and the United Nations Office on Drugs and Crime (UNODC).

The Sky Hole Patching projects are joint initiatives from the WCO and UNEP which focuses on illegal trade in Ozone Depleting Substances and Hazardous waste. Via the network of WCO Regional Intelligence Offices (RILO's) information is being shared via CENcomm. RILO is playing a coordinating role in these projects in the Asia Pacific region.

International Criminal Police Organization (INTERPOL)

The Environmental Security Unit of INTERPOL focuses on several topics, such as Pollution, which includes waste shipments. The information exchange always will go via the National Central Bureau (NCB) which perform the liaison function.

The information to alert countries and sharing information on environmental crimes can be provided via the so called 'notices'. Red Notices are used to find *wanted* environmental criminals; Blue Notices to collect information on suspects; Purple Notices for information on Modus Operandi; and Green Notices to provide intelligence and warnings on trends or on likely to repeat offenders. Information is shared via the I-24/7, which is the secured global police communications system.

The European Law Enforcement Agency (EUROPOL)

Environmental Crime is currently one of the priorities for Europol, therefore the Secure Information Exchange Network Application (SIENA) can be used for this crime area. The platform is used for the exchange of crime related information amongst EU Member States, and with third parties where Europol has cooperation agreements with.

WATCH-IT application

The project Regional Enforcement Network on Chemicals and Waste in Asia Pacific (REN) in cooperation with the Sustainable Scycles Programme (SCYCLE) hosted by United Nations University (UNU) and GRID Arendal have developed a smart phone and tablet application called WATCH-IT, to support frontline enforcement officers in combating illegal waste and chemical shipments. In this application national contact persons for waste shipments from the European IMPEL network, as well the REN focal points in Asia Pacific, are listed. In the application an email function is built to make possible an easy contact between those contact persons.

3.2 Intelligence

While there are several different definitions of intelligence, for this purpose intelligence means a specific information regarding a particular waste shipment, possibly including nominal information, such as names and addresses of private companies and persons involved.

The intelligence can be shared at various stages of the shipment. It can be shared before, during or after the particular shipment took place. It is shared to highlight certain aspects, persons involved and often because of specific considerations concern the legality of a shipment.

Depending on the purpose, and if nominal data is part of the intelligence, the following tools can be applied:

a) Sharing information concerning modus operandi, warnings on trends

Authorities involved: Environmental authorities, Customs, Police.

Suggested Tools:

- CENcomm (including Environet and Containercomm) will be used mainly between Customs;

- SIENA, can be used mainly within EU and between Police, Customs and Environmental authorities;
- INTERPOL, can be used globally between Police, Customs and other Law Enforcement Agencies.

b) Questions related to the shipment (verification of destinations, etc.)

Authorities involved: Competent environmental authorities.

Suggested tools:

- WATCH-IT application, as these questions preferably should be asked via the environmental authorities, which are for EU and Asia listed in this tool.
- Email via Basel Convention contact points.¹⁰

c) Contacts for the purpose of the repatriation of the illegal waste shipment

Authorities involved: Environmental Authorities.

The competence of dealing with such shipments lays with the environmental authorities. At the national level, communication should be promptly established between the environmental authorities and the Law Enforcement agencies such as Customs and Police.

Details of what kind of information needs to be shared can be found in the Basel Convention take-back Guidance document.¹¹

Suggested tools:

- WATCH-IT application as these questions should be preferably asked via the environmental authorities which are for EU and Asia listed in this tool.
- Email via Basel Convention contact points.

d) Details concerning the illegal shipment

Authorities involved: Environmental Authorities, Customs and Police.

Which tool should be preferably used depends on what kind of information is shared and for which purpose, e.g. for sharing trends or for starting a criminal investigation?

Suggested tools:

- CENcomm (including Environet and Containercomm) will be used mainly between Customs and the sharing modus operandi and trends.

¹⁰ Contact points available online at:

<http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

¹¹ The Guidance document is available online at: <http://www.basel.int/Default.aspx?tabid=3562>

- SIENA - can be used mainly within EU and between Police, Customs and Environmental authorities to share all kind of information including nominal data.
- INTERPOL - can be used globally between Police, Customs and other Law Enforcement Agencies for collecting information on suspects, sharing trends, modus operandi including nominal data.
- WATCH-IT application to share modus operandi, trends and other related information, mainly between Environmental Authorities.
- Email via Basel Convention contact points to share trends, modus operandi and other related information and between environmental authorities.

4. CONCLUSIONS

Based on the survey and experiences in the field shared by the 307 respondents from 39 countries the following conclusions can be summarized:

- Different authorities use different mechanisms for exchange of information;
- Information exchange between different types of authorities is experienced as more difficult;
- Due to the involvement of and information exchange between multiple authorities, there is no centralized data on illegal shipments at the national level;
- Existing information exchange mechanisms are not used very often by the participants when it comes to dealing with illegal shipments of waste;
- Information concerning used modus operandi is almost never shared, and when it is shared this mostly occurs just between the countries involved;
- The verified destinations are mainly shared only between the countries involved;
- Destinations are hardly verified when waste is not shipped under a Prior Informed Consent procedure;
- Processes to ensure high security of the information exchange takes longer and therefore, are sometimes considered less efficient;
- There is no need to develop other mechanisms, but rather to improve the use of the existing ones.

5. RECOMMENDATIONS

On the basis of the above analysis, the following recommendations can be drawn:

- There is no need to establish other information exchange mechanisms;
- The existing mechanisms should be better implemented in the hosting organization and made accessible or usable to other organizations as well;
- The added value of the use of the mechanisms should be further highlighted to the potential users;
- The mechanisms should be used as models in trainings on a national and international level to enhance dissemination and understanding of the tool;
- The centralized or regional liaison offices of police and customs should play a leading role in the implementation and promotion of the existing mechanisms;
- The Basel Convention Secretariat should act as the link between environmental authorities, and on a regional and global level as the link to other organizations as WCO, INTERPOL and EUROPOL.