



European Union Network for the Implementation
and Enforcement of Environmental Law

IMPEL

Take-Back

Difficulties and possible cooperation between Asia and EU

Marina de Gier

6-8 September 2016

Semarang Indonesia



Outline

- **Implementating status of take back**
- **Take back casus from Asia to EU**
- **Difficulties concerning take-back**
- **Important actions for good cooperation between competent authorities**

Take-back in Europe

Waste Shipment Regulation: important articles:

- **Art 2: Definitions of illegal shipment**
- **Art 24: Take-back when a shipment is illegal**
- **Art 25: Costs for take back when a shipment is illegal**





What is illegal traffic?

Any transboundary movement of wastes:

- **Without notification to all States concerned;**
- **Without consent of a State concerned;**
- **With consent obtained from States concerned through falsification, misrepresentation, or fraud;**
- **That does not conform in a material way with documents;**
- **That results in deliberate disposal (e.g. dumping) of wastes**

Basel Convention Parties shall consider illegal traffic as a crime and shall take action



What is illegal traffic

Waste often illegally shipped by using the following methods:

- **misdeclaration of goods**
- **concealing waste behind or underneath other material**
- **using forged testing labels (WEEE)**
- **mixing waste**
- **moving waste under Annex VII when notification is necessary**

Take back obligations

When a shipment cannot be completed as intended

Or

When a shipment is illegal





When a shipment cannot be completed

- **Waste taken back within 90 days**
 - **By the exporter or generator, or the state of export or otherwise disposed (in accordance BC)**
- **New notification or duly reasoned request by the initial competent authority of dispatch**
- **Use of movement document**
- **Costs of take-back**



Takeback when a shipment is illegal as a result of conduct on the part of the exporter or the generator:

- **Waste taken back within 30 days, by the exporter or the generator or state of export or otherwise disposed of (inaccordance with BC)**
- **Who is responsible: the exporter or the importer?**
- **New notification or duly reasoned request by the initial CA of dispatch**
- **Use of movement document**
- **Costs for take back**

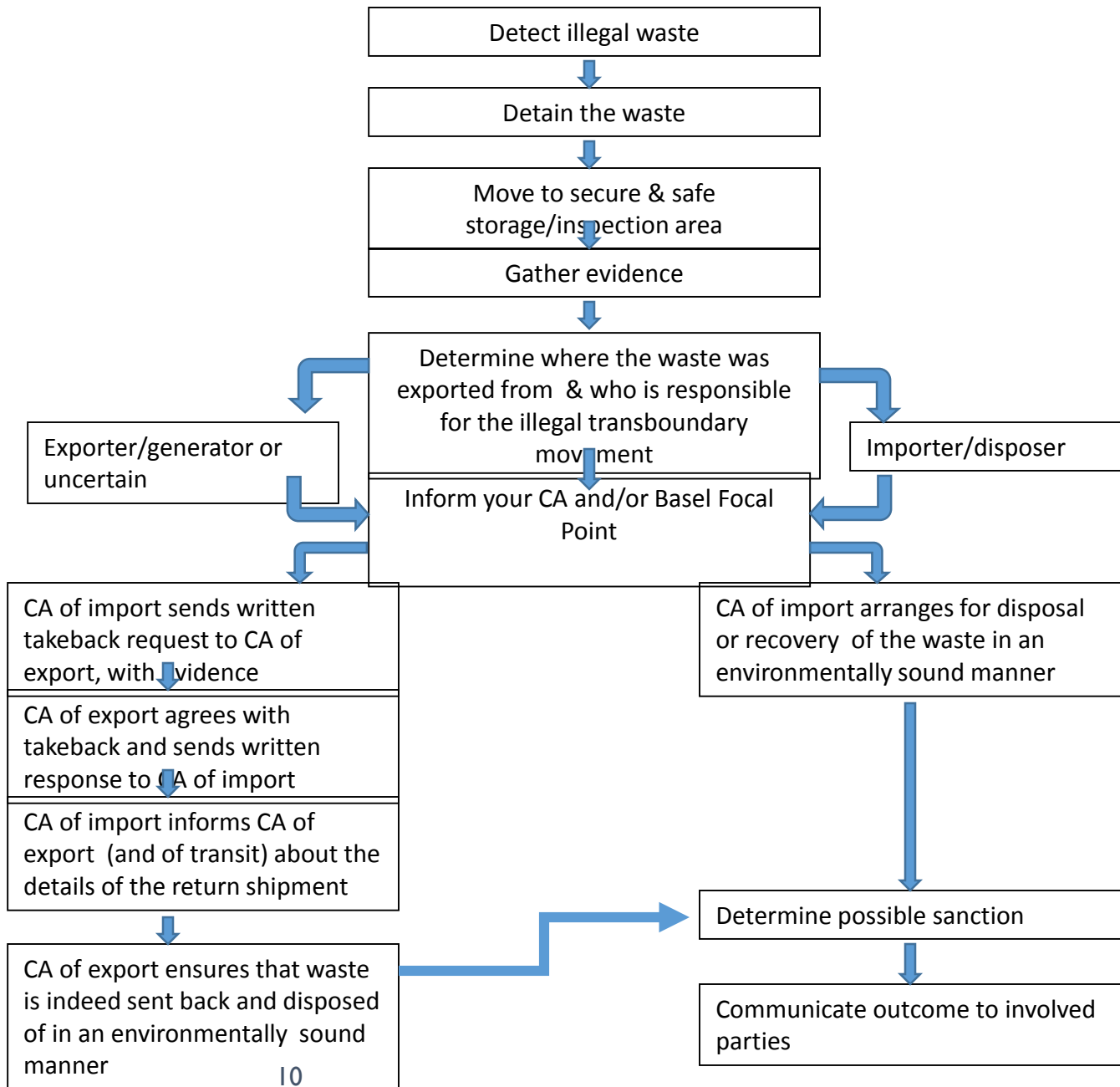


If importer or disposer is responsible

Competent Authority of import arranges for the disposal or recovery of the waste in an environmentally sound manner



Decision Tree Overview



Number of repatriations in NL 2014

In case of the NL as a transit country: 28 cases (1.890 ton)

In case NL as exporting country (dispatch): 13 cases (3.823 ton)

In case NL as importing country (destination) 4 cases (3.581 ton)





Cases of take back from Asia to EU

Return shipments from China to the Netherlands and UK (paper and plastic)

Return shipments from Indonesia to UK and the Netherlands

Return shipments from the Netherlands to Thailand (ongoing)

Difficulties

- **Banckrupcy of the owner of the waste**
- **Notifier not clear (eg waste tourist)**
- **Notifier not willing**
- **Abandoned waste at ports**
- **Waste not allowed, but further shipped outside the control of the authorities**
- **Unclear who to contact**
- **Gathering evidents, investigation may be time consuming**
- **Complex trail of involved companies and individuals**
- **Financial implications**
- **Different opinions of competent authorities eg regarding classification of waste.**
- **Lack of a commonly agreed procedure.**



When it is difficult within 30 days is quite short/not possible



How to be successful: important actions for good cooperation

Gather asap all the necessary evidence (important to identify who is responsible for the illegal shipment)

Contact the involved competent authority, within your country (eg when the illegal shipment is detected by customs or police)

Contact asap the competent authority of country of dispatch (even before the formal take back request)

Take care the load is not mixed with other loads (the link between that specific load and the involved companies must be clear)

Evidence

- If you plan to pursue any legal actions relating to a shipment, good evidence collection and management is critical for success.
- Good evidence can answer:
 - Who
 - What
 - Where
 - When
 - Why
 - How



How to be successful: important actions for good cooperation

Checklist of evidence:

Disposal/recovery contract

Customs documents

Business records

Weigbridge ticket slips

Bill of lading

Other delivery documents

Invoices

Safety data sheets

Testing certificates





How to be successful: important actions for good cooperation

Checklist of evidence:

Notification and movements documents

Photographs and/or x-ray scans of the load

Interview transcripts and of communications with parties involved

Sampling reports



Concluding remarks

Most important

**Good and open
communication between all
the involved (competent)**

authorities and industry





Guidance material

- IMPEL's Manual on the return of illegally shipped waste:

<http://impel.eu/projects/manual-on-the-return-of-illegal-shipments-of-waste>

- INECE take back guidance manual:

<http://inece.org/resource/takeback-guidance>

- Basel Convention on Illegal Traffic:

<http://archive.basel.int/legalmatters/illegtraff/index.html>

- Basel Convention guidance for prosecutors:

<http://archive.basel.int/meetings/oewg/oewg6/docs/12e.pdf>



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Thank you!

Email: info@impel.eu

Website: www.impel.eu