



# WASTE TRAFFICKING

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# Content




An aerial photograph of a large container ship sailing on the ocean. The ship is heavily loaded with colorful shipping containers in shades of blue, red, green, and brown. A smaller tugboat is visible in the water to the right of the ship. The sky is clear and blue.

1. **Rules for Transboundary Movements of Waste**
2. **Waste trafficking:**
  - **Modus Operandi**
  - **Links with other types of crime**
  - **Detection**
  - **Investigation**

# Some examples



## Hazardous Exports Contribute to Soil Contamination at Lead Battery Recycling Plants in Mexico



FEBRUARY 2023



🕒 JANUARY 25, 2022

### 97% of Latin America's e-waste is improperly managed and includes an annual \$1.7 billion in recoverable materials

by UN Institute for Training and Research (UNITAR)

📊 97% of Latin America's e-waste is improperly managed; Includes an annual \$1.7 billion in recoverable materials: UN

This report covers 13 Latin American (LATAM) countries located in Central and South America. The countries are: Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela.

Electronic waste in 13 Latin American countries rose by 49% between 2010 and 2019, roughly the world average, but just 3% was collected and safely managed, a fraction of the 17.4% global average, according to the UN's first assessment of Latin America's e-waste volume, legislation, and management infrastructure.

### Latin America urges US to reduce plastic waste exports to region

Study finds exports to region doubled in 2020 with practice predicted to grow as US invests in recycling plants



📷 A woman pulls a cart loaded with bags of recyclables through the streets of New York. Photograph: Johannes Eisele/AFP/Getty

Environmental organisations across Latin America have called on the US to reduce plastic waste exports to the region, after a report found the US had doubled exports to some countries in the region during the first seven months of 2020.

A photograph of an industrial facility, likely a refinery or chemical plant, at dusk. The sky is a deep blue, and the facility's lights are glowing, illuminating various structures including tall distillation columns, pipes, and large storage tanks. The foreground shows a dark, grassy field.

# General rules for shipping waste across borders

# **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal**

*“Seeks to protect human health and the environment from harm which may be caused by generation and management of hazardous wastes”*

Adopted in 1989, entry into force 1992  
(189 Parties as of December 2021)





# Pillars of the Basel Convention

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I. The minimization of the generation of hazardous and other wastes

II. The requirement of environmentally sound management (ESM) of hazardous wastes and other wastes

III. The control of transboundary movements of hazardous wastes and other wastes (Prior Informed Consent Procedure – PIC)

## Export/Import/Transit Control under Basel Convention – basic rules and principles



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- Basel contains a detailed Prior Informed Consent (PIC) procedure with strict requirements for transboundary movements (TBM) of wastes (article 6)
  - Right for each Party to prohibit import/export/transit of all or specific wastes (article 4)
  - Classify additional waste streams as hazardous (article 3)
  - Basel specifies consequences of illegal traffic, eg. obligation for exporter to take back illegal shipment (article 9)
  - Transboundary movements between Parties and non-Parties generally not permitted unless entered into an agreement (Article 11)

## What is waste?

- Article 2.1: Substances or objects that are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law

## What is hazardous waste?

- (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and
- (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

## What are other wastes?

- Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be “other wastes” for the purposes of this Convention.



# What types of waste fall under the scope of the Basel Convention?

# Waste classification

PIC procedure  
required for  
hazardous and other  
wastes:

- Annex I: Categories of wastes to be controlled (Y-codes)
- Annex II: Categories of wastes requiring special consideration (Y-codes)
- Annex III: List of hazardous characteristics (H-codes)
- Annex VIII - List A (A-codes)

No PIC procedure  
required for non-  
hazardous wastes:

- Annex IX - List B (B-codes)

## Examples of hazardous waste A-codes



Cadmium containing waste



Lead containing waste



PCB containing waste

## Examples of other waste (Y-codes)



A photograph showing an open shipping container filled with a large pile of waste, including paper and plastic. Two men in light blue work clothes are standing outside the container on the left. The container has a logo that says "ITEL Container Division". The scene is outdoors, possibly at a port or industrial site.

# Amendments to the Basel Convention



# Ban amendment

Decision III/1 of 1995 amended the Convention »

Bans exports of hazardous waste from countries listed in Annex VII (OECD, EU, Liechtenstein) to non-Annex VII countries

Entered into force 15 December 2019

*note: transboundary movements of hazardous waste between non-Annex VII countries is possible – if all procedures have been followed*



# Plastic Waste amendments

Decision BC-14/12 amended the Convention » identifies new categories of plastic waste subject to the Basel Convention

- To address the challenges with plastic waste
- To limit or regulate movements of plastic waste

Entered into force 1.1.2021



# **New rules for shipping plastic waste**

- Increased transparency
- Traceability
- Sharing of information

To make enforcement more effective, curbing the illegal dumping of plastic waste in countries not wishing to receive such waste or lacking the capabilities for environmentally sound waste management.



- Non-hazardous plastic waste
- B3011
- Annex IX



- Hazardous plastic waste
- A3210
- Annex VIII

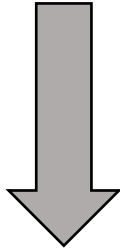


- Other plastic waste
- Y48
- Annex II

A person wearing a full orange protective suit, a respirator mask, and a yellow gas cylinder is crouching in a large pile of garbage. The background shows a vast landscape of waste under a cloudy sky. The text "Waste trafficking" is overlaid in white, underlined, in the center of the image.

# Waste trafficking

While waste is increasingly viewed as a resource,  
resulting in global trade



Increased polices and regulatory control on waste  
has created the conditions where waste crime now  
operates alongside a legitimate waste sector.



- Waste trafficking » article 9 of the Basel Convention
  - No globally agreed definition of waste crime
- New model provision for waste trafficking in the UNODC guide



### MODEL PROVISION 3: WASTE TRAFFICKING

- (1) "Traffics", in relation to waste, means imports, exports, transports, buys, sells, brokers, treats, processes, collects, sorts, labels, handles, utilizes, stores, recycles, disposes of or burns:
- Without lawful authority where such authority is required by law;
  - Without a [insert relevant terminology for licences, permits, certificates etc.] granted by [insert competent authorities];
  - Contravening the conditions of said [insert relevant terminology for licences, permits, certificates etc.]; or
  - In a manner that otherwise contravenes [insert reference to relevant waste management legislation].
- (2) Any person who [with the requisite mental state] traffics waste belonging to a category listed in [insert reference to relevant schedules] commits an offence.

# What causes waste crime?

- Unclear legislation
- Weak enforcement
- Increased costs of legal disposal
- Waste as global commodity
- Complex business structure
- Appearance of the waste





## Impact of waste trafficking

- Impacts on environment and human health
- Loss of jobs
- Loss of public trust
- Loss of resources

*And it is linked with other types of crime*

## *Illegal act with waste*

- Unlawful or Unauthorized
- Transporting, processing, disposing, dumping or otherwise illegal management
- Waste



Examples of Modus Operandi

# **Misdeclarations, concealment and misuse of HS codes**

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Exporters use creative ways to hide shipments of waste or hazardous waste to avoid customs' check or regulatory controls:

- **Misdeclarations** » For example, wastes are wrongly classified as a product or a second-hand good, or hazardous wastes are wrongly declared as non-hazardous wastes.
- **Concealment** » For example, goods are physically hidden.
- **Misuse of Customs HS codes.**

# Examples of misdeclarations

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**E-waste and chlorofluorocarbon (CFC)-containing refrigerators declared as second-hand goods.**



**Mixed household residues declared as paper or plastic waste.**



**Polychlorinated biphenyl (PCB)-containing transformers classified as metal scrap.**



**Cathode-ray tubes (CRT) classified as metal scrap.**



**Expired chemical and pigments declared as products.**

# Examples of misdeclarations

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Waste plastics mixed with other wastes, medical waste or used chemical bottles, municipal solid waste. **Declared illegally as plastic scrap: 3915.**



Batteries, metal scrap contaminated with hazardous waste, electronic wastes. **Declared illegally as metal scrap: 7204.**



Waste CRT monitors. **Declared illegally as CRT monitors: 8528.**

# Examples of concealment methods

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**Using a cover load:  
placing the illegal wastes  
behind rows of goods or  
under layers of goods.**



**Placing false labels on  
wastes or removing  
old labels.**



**Hiding e-waste in  
blinded and sealed  
vehicles or trucks.**



**Mixing hazardous waste  
with non-hazardous  
waste or used goods.**

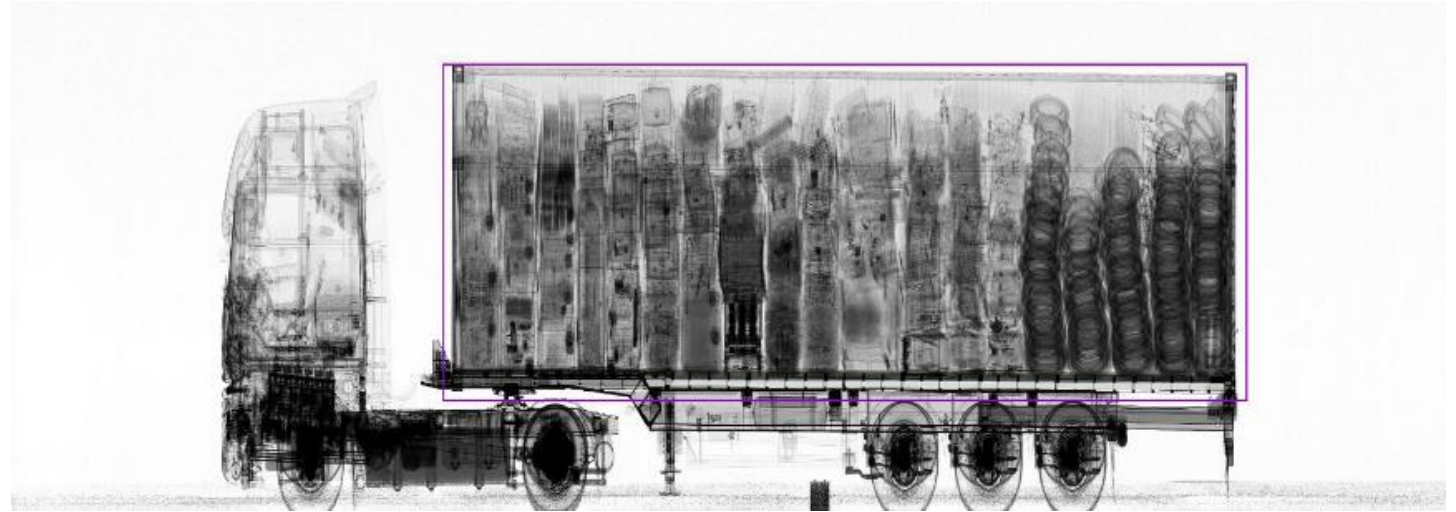
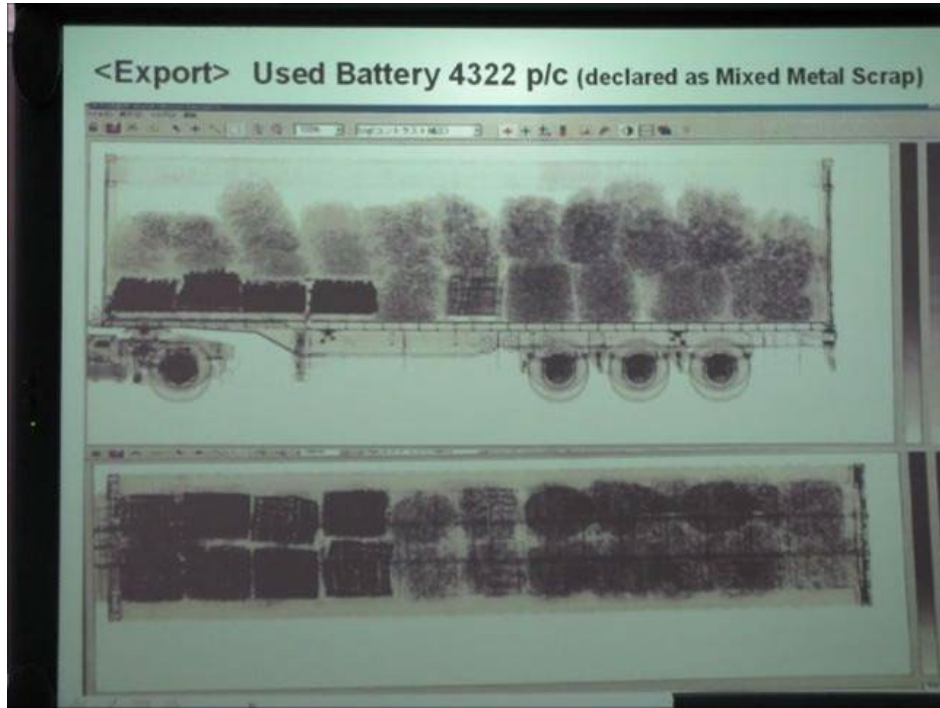


Photo credits: Jan Oomen



Photo credits: Bojan Pockar

In the export documents declared as recyclable plastic



Photo credits: BRS Secretariat

Unsound treatment



Photo credits: BAN



## How organised is waste trafficking?

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## Domestic

- Waste generators
- Collection and transport companies
- Brokers / dealers
- Storage sites
- Sorting sites
- Waste management sites

## Export

- Shipping agent / declarant
- Accreditation companies / surveyors
- Brokers/dealers
- Transporter
- Shipping line

## Import

- Consignee
- Brokers/dealers
- Transporter
- Sorting
- Recycling or other waste management facility

Environmental authorities

Customs

Border management agencies

Port authorities

Police

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## Corruption and Waste Trafficking



# What is corruption?

There is not one global legal definition of corruption.

The United Nations Convention against Corruption (UNCAC) does not contain a definition of corruption, but lays out the illegal actions defined as corruption offences:

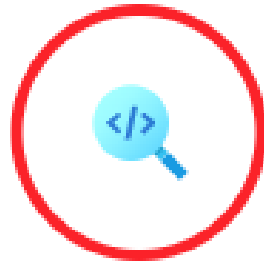
- Bribery in the public and private sectors (articles 15, 16 and 21)
- Embezzlement in the public and private sectors (articles 17 and 22)
- Trading in influence (article 18)
- Abuse of functions (article 19)
- Illicit enrichment (article 20)
- Money-laundering (article 23)
- Concealment (article 24) and Obstruction of justice (article 25) related to the offences listed above

**Common understanding » the abuse of entrusted power for private gain**

# Key risk moments in the waste management chain



Licensing

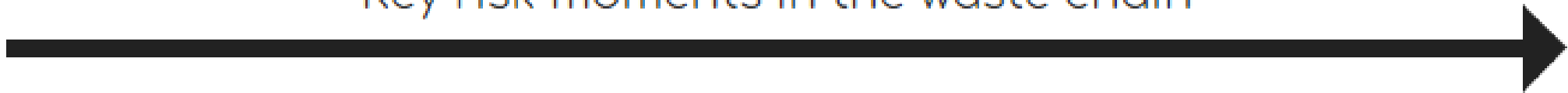


Monitoring  
Compliance



Enforcement &  
Prosecution

Key risk moments in the waste chain



# Corruption risks in the waste management chain

## Transboundary Movement of Waste

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### Possible private actors

- Waste exporter
- Shipping agent
- Declarant
- Accreditation companies / surveyors
- Transport companies
- Waste brokers & dealers
- Shipping lines

## Waste treatment

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### Possible private actors

- Consignee / receiver of the waste
- Waste brokers & dealers
- Transport companies

Movement of waste outside of the scope of the Basel Convention, which is either not regulated or regulated under national legislation

Movement of waste under the scope of the Basel Convention requiring Prior Informed Consent

# Key public actors, process and goals of corruption

Key public sector actors	High risk processes	Goals
<p>National and local environmental authorities</p> 	<ul style="list-style-type: none"> <li>• Issuing of licences or permits for waste treatment sites</li> <li>• Issuing of transport registrations</li> <li>• Issuing of consent for transboundary movements of waste</li> </ul>	<ul style="list-style-type: none"> <li>• Obtain permits, licences or registration without necessary qualifications or based on false information</li> </ul>
<p>Environmental authorities and surveyors</p> 	<ul style="list-style-type: none"> <li>• Compliance monitoring and inspection</li> <li>• Quality control of the waste</li> </ul>	<ul style="list-style-type: none"> <li>• Avoiding detection</li> <li>• Obtain certificate of quality</li> </ul>
<p>Customs officials</p> 	<ul style="list-style-type: none"> <li>• Import/export control clearances</li> </ul>	<ul style="list-style-type: none"> <li>• Avoid detection</li> <li>• Obtain approval or clearance for import or export of waste which is not allowed</li> </ul>
<p>Law enforcement agencies and judiciary</p> 	<ul style="list-style-type: none"> <li>• Independent controls</li> <li>• Receiving and investigating complaints</li> <li>• Prosecuting case</li> </ul>	<ul style="list-style-type: none"> <li>• Avoiding or hindering investigations</li> <li>• Avoiding sanctions</li> </ul>



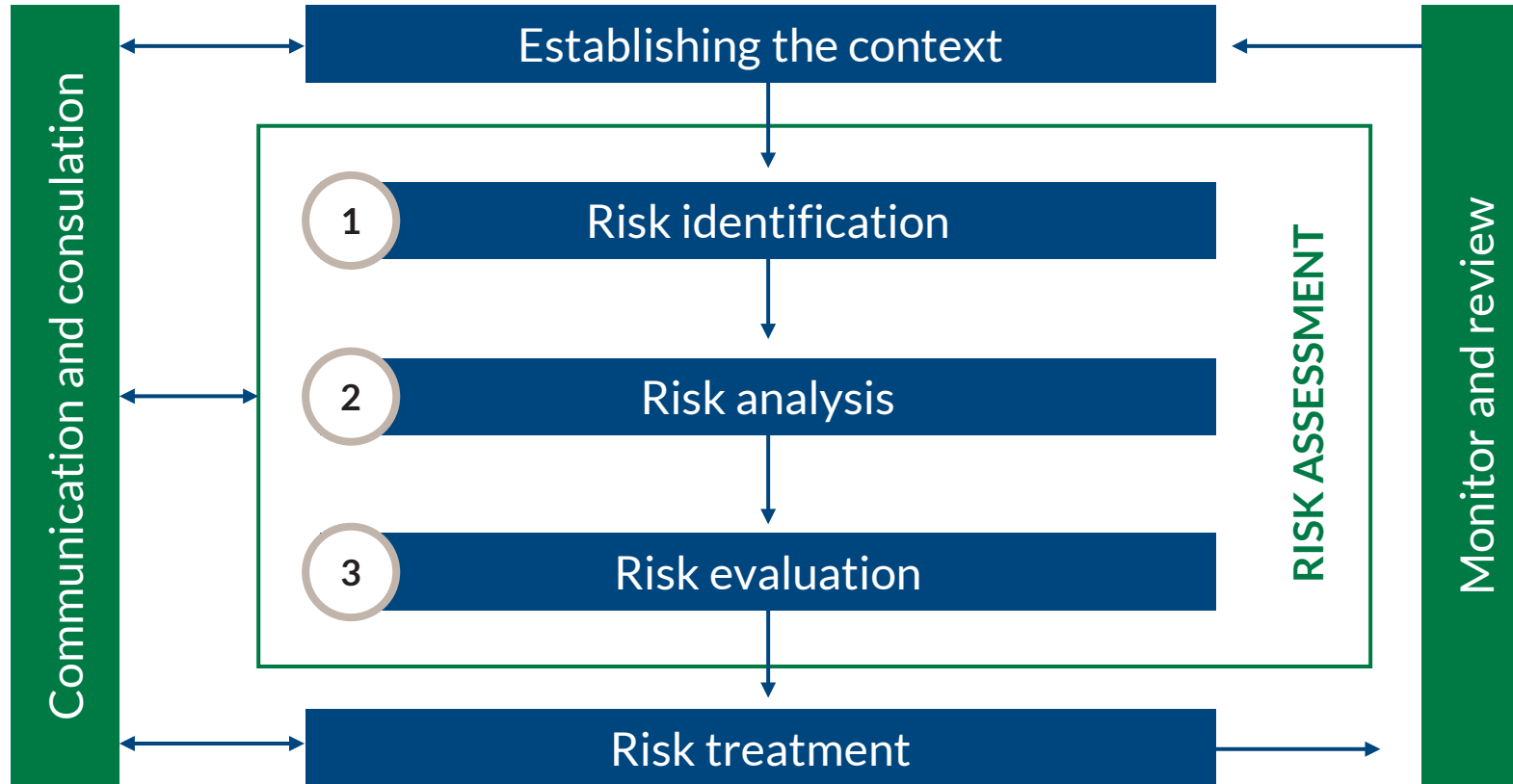
# Detection, Investigation and Prosecution

# Risk management

- Key vehicle for customs administrations to **better meet the demands and complexity** of the trade and operating environment.
- **Identifying and addressing risks and enabling targeting.**
- Supported by **intelligence.**

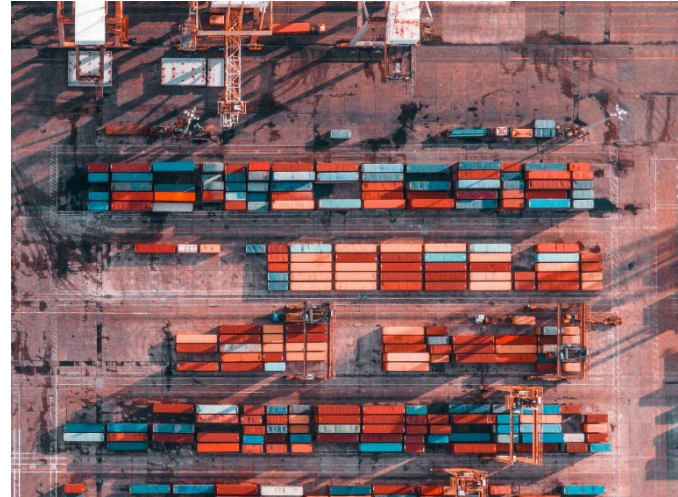


# Steps of risk assessment



# Assessing risks of waste and indicators

- **Risk indicators and search parameters** are developed following completion of the risk identification and analysis phases of the risk assessment.
- **Risk indicators flag potential problems with a particular shipment.** If customs work with electronic systems, profiles can be built into their electronic systems.
- Risk indicators can include for example ‘escape code’ (the wrong use of HS codes to circumvent customs controls), the value of the goods, routes and destination countries and involved companies.



# Risk indicators can relate to:

- The object of the trade
- Documents
- Packaging
- Concealment methods
- Customs procedures
- Routing
- Individuals/companies
- Countries concerned



Movement document for transboundary movements/shipments of waste	
1. Corresponding to notification No.:	2. Transferor's name and address:
3. Exporter's name and address:	4. Importer's name and address:
5. Date of issue:	6. Date of expiry:
7. Description of waste:	8. Description of waste:
9. Quantity of waste:	10. Quantity of waste:
11. Name of waste:	12. Name of waste:
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# Investigating illegal traffic

## Proof or evidence to answer:

- Is it waste?
- Is it a transboundary movement?
- Not under any exception?
- Destined for (sound or licensed) recycling or disposal?
- Hazardous or non-hazardous waste?
- Is the followed procedure the right one?
- Who is responsible?

# Dealing with illegal traffic

- Secure possibly illegal shipment
- Gather physical and administrative evidence to build a case
- Communicate with competent authorities of involved countries
- Arrange take-back in case this scenario applies



# Evidence gathering

- A written report of the findings: describe all the steps of the investigation and the evidence gathered. **It is important to describe what triggered the inspection in the first place.**
- Originals or copies of documents that contain evidence: movement and notification documents and shipping documents or information available from the exporter, importer, shipping lines and shipping agents.
- Statements from persons involved or witnesses: e.g. shipping agents, truck drivers, the exporter or importer.
- Photographs or footages of the load itself, labels, placards, container, etc.
- Results of analysis if samples have been taken.



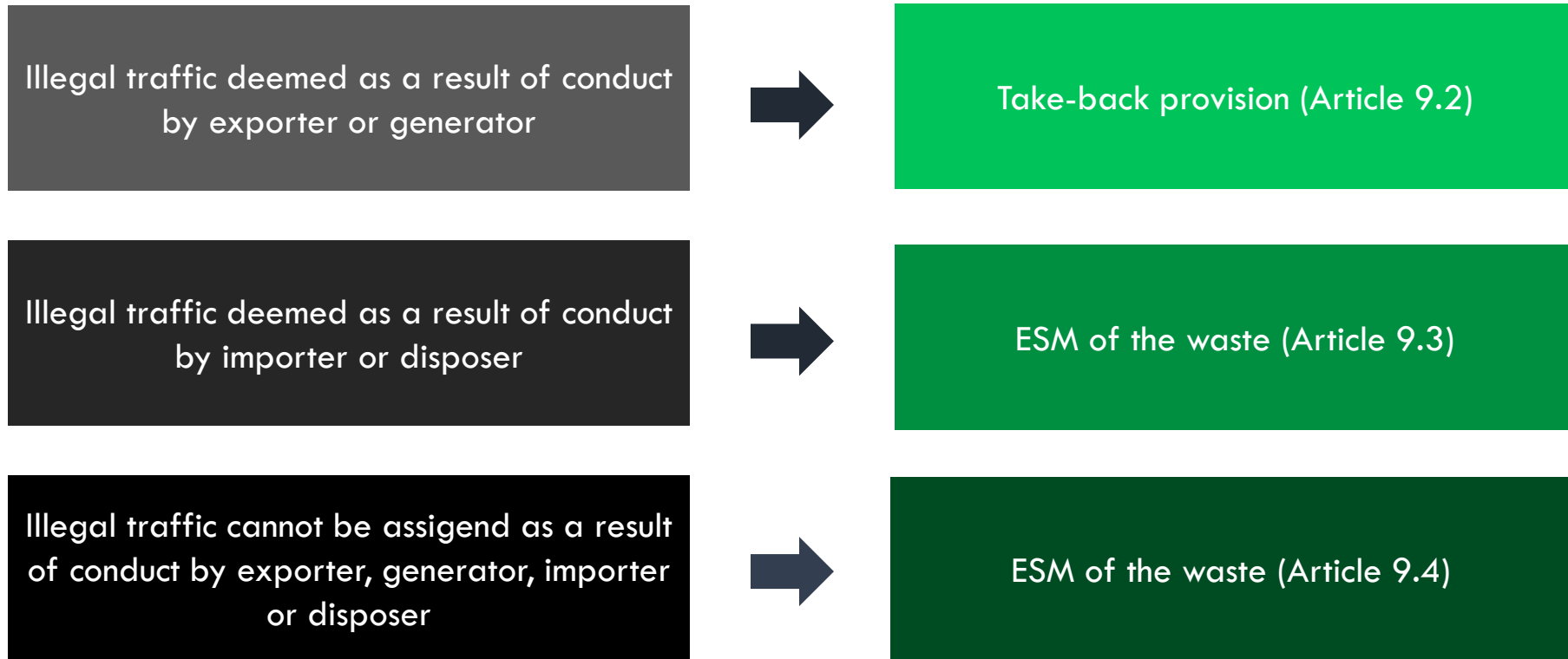
# Administrative evidence

- Waste related documents (notification form, movement form, Annex VII (only EU))
- Shipping documents (Bill of Lading, Manifests, etc)
- Import/export requirements (registered importer/exporter, pre-load, pre-shipment, etc)
- Trade related documents (contract, invoices, bank guarantees, weighing slips, etc)

# Visual evidence

- Waste classification
- Contamination level
- Indicators: packaging, labels, RIC codes, etc

# Consequences of illegal traffic



Basel Secretariat Guidance:

UNEP/CHW.12/9/Add.2

Annex

Guidance on the Implementation of the Basel Convention  
Illegal Traffic Take-back Provision (paragraph 2 of Article 9)

*ESM = Environmentally Sound Management*



What questions do you have?



AmbienDura  


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