

# SAFE THAI

Safety and Environmental Best Practices Exchange  
for Transportation of Hazardous Substances in the Industry

A Project Funded by the  
European Union



(Under the Thailand - EC  
Cooperation Facility)

# Integrated Implementation of MEAS an EU perspective

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A Project Implemented by



Hazardous Substances Logistics  
Association



adelphi research



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# Basel Convention

- Its implementation in the EU
- The effect of the Ban Amendment
- Provisions of the WSR  
other legislation – trade in non hazardous recoverables
- Compliance and enforcement in the EU

# Basel Convention Overview

- Basel Convention is first step
- Thailand became Party in 24/11/97 (signed 22/03/1990)
- National legislation introduced to implement the Convention
- BC facilitates trade in wastes between Parties with additional controls to ensure protection the environment and human health as described in morning session

# The Basel Ban Amendment

- BC also introduced an Amendment to the Convention (article 4a) on banning the export of hazardous waste to so called non Annex VII countries – The “Ban Amendment”
- The Ban Amendment is not yet in force as the entry into force conditions are not yet considered to have been definitively met.
- This is still the subject of debate at meetings of the Conference of the Parties and its subsidiary bodies
- EU has implemented it

# Implementation in the European Union – EU Member States

Austria	Germany	Netherlands
Belgium,	Greece	Poland,
Bulgaria,	Hungary	Portugal,
Cyprus	Ireland	Romania
Czech Republic	Italy	Spain
Denmark	Latvia	Slovakia
Estonia	Lithuania	Slovenia
Finland	Luxembourg	Sweden
France	Malta	United Kingdom

# EUROPEAN UNION Member States



# EU Law

- EU has different ways of issuing legislation.
- The main methods are by
  - Directives and
  - Regulations
- These two in particular have important differences

# EU Directives

- For action at the State level a Directive sets out the requirements to be fulfilled
- these are binding on all EU States
- They are implemented (transposed) nationally by each EU Member State
- in a way that fulfills the objectives of the Directive whilst being adapted by the State according to its own circumstances

# EU Regulations

- A Regulation at the Community level has direct effect across the whole of Europe's EU countries.
- An EC Regulation is not adapted to individual State circumstances (except in the negotiating phase)
- Member States will need to provide some additional implementing legislation to create powers eg for competent authorities to inspect and penalties for offences in their territory.

# Waste Shipments Regulation

- Is an EU wide Regulation with direct effect – there are versions translated in the official languages of the EU all considered to be with the same effect
- Adheres to “high standards of Environmental protection” according to successive Treaties on the Union
- Aims also to ensure protection of the environment beyond its borders

# Stockholm Convention

- Also implemented by EU Regulation
- Regulation (EC) No 850/2004 of the European Parliament and the Council of 29 April 2004 on persistent organic pollutants and
- amending Directive 79/117/EEC1 (EU “POPs Regulation”)
- implements these agreements for all EU member states.

# Rotterdam Convention -1

- Regulation (EC) No 689/2008 of the European Parliament and of the Council concerning the export and import of dangerous chemicals is the main legal instrument implementing the Rotterdam Convention in the EU.
- Provisions go beyond those of the Rotterdam Convention.

# Rotterdam Convention Prior Informed Consent in EU - 2

Additionally includes:

- scope extended to exports to all countries irrespective of whether or not they are Parties to the Convention;
- Community export notification widened by including a broader range of chemicals;
- Explicit consent of importing countries required before PIC chemicals and chemicals qualifying for PIC notification can be exported
- all dangerous chemicals to be appropriately packaged and labelled when exported.
- EU Member States have to notify exports and seek explicit consent for all countries not just Parties to the Convention.
- not limited to chemicals that are banned or severely restricted under the Convention also covers chemicals that are banned or severely restricted at EU level.

# Provisions of EC No 1013/2006 on Shipments of Waste the “WSR”-1

- Comprehensive and more detailed than the Basel Convention
- Replaces previous version: EC No 259/93
- Into force June 2007
- Harmonised with recent Basel Convention amendments and OECD Decision of 2001

# Provisions of EC No 1013/2006 on Shipments of Waste the “WSR”- 2

- 2 procedures: notification / information
- Some exceptions: on-board generated ship waste, military waste imports, animal by-products, laboratory samples for analysis;
- Clarified rules for notification, financial guarantees, take-back
- Extended grounds for objections
- Provision for electronic exchange of information and documents
- Strong focus on enforcement and cooperation

# WSR Implementation: Issues

Perceived:

- Divergent interpretation and application of the EU Waste Shipment Regulation
- High number of illegal waste shipments
- inadequate resources
- insufficient controls
- lack of adequate coordination among and within the Member States

# WSR - Solutions

- Joint enforcement actions
- Reinforced cooperation; bi-and multi-lateral cooperation of Member States
- Frequent and adequate inspections
- Improved exchange of information between European Commission and MS
- Targeted training programs
- Possibility explored for the establishment of:
  - legislative action/guidelines on inspections
  - a Helpdesk for Implementation/Enforcement

# Accompanying regulations

- No 1379/2007 (changes annexes)
- No 1418/2007 (for exports of green-listed waste to non-OECD countries)
- Thailand has responded on this and made provision for controls to be applied to certain “Green List waste”

# UK Implementation Key changes: strengthening the regime

- UK TFS Regulations issued
- Offences to apply to “any person who ships waste, or is involved in the shipment of waste”
- HMRC (customs) powers to detain waste increased from 3 to 5 days
- Powers to serve notices
- Powers to seize waste
- Information provided on exports of recyclables
- Linked to the UK “Duty of Care” regime

# Synergies

- There are different kinds:
  - formal processes on the UNEP chemicals Conventions Basel, Stockholm, Rotterdam
  - Other processes to implement and harmonise actions
- EU working on Synergies at UNEP level and at Member State level
- Eg in EU Stockholm Rotterdam and Basel Convention implemented via a common process - EU Regulation (ie direct effect across all member States)

# Synergies between European Environmental Regulators – The “IMPEL” Network

- EU Network for the Enforcement and Implementation of Environmental Law
- 1991 study concluded all links in the regulatory chain including enforcement must be strong
- acknowledged discrepancy between environmental law and actual practice (1991)
- IMPEL created in 1992

# IMPEL Network

- Stimulates compliance with the Waste Shipments Regulation through enforcement;
- Carries out joint enforcement projects;
- Promotes exchange of knowledge and experience with the enforcement of waste shipments
- IMPEL working with Basel Convention Secretariat – Compliance and Implementation Committee

[http://ec.europa.eu/environment/impel/impel\\_tfs.htm](http://ec.europa.eu/environment/impel/impel_tfs.htm)

# IMPEL Projects

## Previous Projects:

- IMPEL-TFS Seaport I & II
- IMPEL-TFS Verification I & II
- Threat Assessments
- Manual 'return of illegal shipments'

# IMPEL PORTS PROJECT - RESULTS

- Over 400 export containers and vehicles inspected
- Approximately 50% suspected illegal
- Municipal Waste, plastics, tyres, fridges, computers
- Highlighted issues over waste definitions
- Indicated number of parties involved
- Difficulties in proving destinations of waste
- 4 cases prosecuted
- 6 others

# Example Cases

## 1) PCB-containing transformers

- Transformers declared as metal scrap from Germany via the Netherlands to China
- Samples showed that the oil contained PCBs

## 2) 29 containers from the USA via the Netherlands to Nigeria

- Found to be hazardous waste
- Destination company was fake

# International Synergies

- Synergies between Basel Rotterdam and Stockholm Conventions
- What are they
  - Process
  - Action
  - Outcome
  - Solutions – administrative/legal/institutional
- At the international level still at early stages

# National level Synergies

Some actions that may be stimulated by discussions on synergies at the international level:

- Combined Focal points
- Common Competent authorities
- Common competencies - expertise shared within authorities and Ministries
- Coordination, coherence, cooperation within states (regulators) and between groups of states – e.g. documentation
- Joint Projects – see IMPEL work

# Compliance Road Map - 1

Are there published:

- national (or local) environmental criteria that identify the expected level of environmental protection?
- environmental standards, using such criteria or e.g. recognised international standards)?
- industry standards?
- technical standards for operation of facilities including practical manuals?
- environmental assessment techniques or procedures for identifying the potential impact of facilities?

# Compliance Road Map - 2

What of these are being used:

- documented site operational procedures?
- quality management systems – for auditing by a third party, such as an accredited independent auditor?
- staff who are trained and technically competent?
- provisions such as emergency plans or shut down procedures, for dealing with incidents and problems?
- monitoring of the operation of individual facilities by the operator to check for compliance with the permit?
- monitoring of the environment within and outside the facility, records of which are kept for inspection?

# Compliance Road Map - 3

- is the Basel Convention implemented into national law for imports and exports of waste?
- what national laws regulate waste activities?
- Is an environmental regulator/competent authority responsible for ensuring compliance with the legislation?
- are site-specific permits issued with detailed conditions for site operation on: prevention of pollution by limits of emissions to air, water and land?
- what are the penalties for failure to comply - are they enforceable through the courts?
- are there records of documented inspections and data on monitoring of the facility by a competent authority?

Thank you  
for  
Listening