



# WasteForce Training and Scenarios

## 24-26 February 2021

### 1. Introduction to the international legal framework

Environmental crime can be understood as *“a collective term to describe illegal activities harming the environment and aimed at benefitting individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including serious crimes and transnational organized crime”* (UNEP/INTERPOL 2016, p.7).

This presentation will take us through the steps in the process of detecting, investigating, and prosecuting possible waste offences. This presentation is based on the [Guidance for Prosecutors of Waste Crime](#) developed by WasteForce and launched in April 2020. The first part will be a quick overview of the international legal framework and key issues raised under the international legal framework for the waste trade. The second section is a series of scenarios. Each of the scenarios are preceded by some discussion about the topics to be covered in each scenario. Each of the scenarios will refer to other resources and provide facts and questions to be discussed during the breakout sessions. The aim is to discuss and answer the questions asked after each scenario has been outlined.

As time is limited, participants are requested to go through this entire presentation before the first day of the Training Workshop. This will ensure that participants are familiar with the materials, concepts, outline facts and the breakout questions. The breakout sessions are designed for the participants to share their experiences, in the context of the scenario, with other members of the breakout group.

## Outline

- The Conventions
- What is waste?
- What is illegal traffic?
- Prior informed consent
- Take Back Procedures

The scenarios do not cover Take Back Procedures.

Disclaimer: All photographs are stock images or references and are used solely to illustrate the scenarios and do not imply any connection with the activities the subject of this presentation.

## 2. Case Study - Three Scenarios

These scenarios will take us through a waste voyage from a port in the EU (Port Europa) to a port in Asia (Port Asia). Country Asia is a non-OECD Country. Through this three-part presentation we will examine the key steps involved in the illegal waste trade. The scenarios are based on a real case but they have been modified to remove any identifying features. Each scenario will look at a step in the compliance process and reference will be made to the [Guidance for Prosecutors of Waste Crime](#) released in April 2020. Reference will also be made to the [Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes 2012](#).

### Part 1 – Leaving Europe on the slow boat to Asia

Documentation and Prior Informed Consent (PIC). Detection at the point of departure

### Part 2 – Arrival and discovery

Detection on arrival and investigation and evidence gathering

### Part 3 – Dealing with the Consequences

Prosecution and penalty



## 1. International Legal framework



**BASEL CONVENTION**

*the world environmental  
agreement on wastes*



**ROTTERDAM CONVENTION**



**STOCKHOLM CONVENTION**



- [The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#) (1989)
- The [Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#) (1988)
- The [Stockholm Convention on Persistent Organic Pollutants](#) (2001)
- The [Montreal Protocol on Substances that Deplete the Ozone Layer](#) (1987)
- The [Minamata Convention on Mercury](#) (2017)

What is waste?



The Basel Convention defines “wastes” as substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law (Article 2, paragraph 1)

The provisions apply to what are known as “hazardous” and “other” wastes

Hazardous wastes:

- Wastes that belong to any category contained in Annex I of the Convention unless they do not possess any of the characteristics contained in Annex III; and
- 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.

Annex VIII of the Basel Convention (List A) describes the wastes that are hazardous.

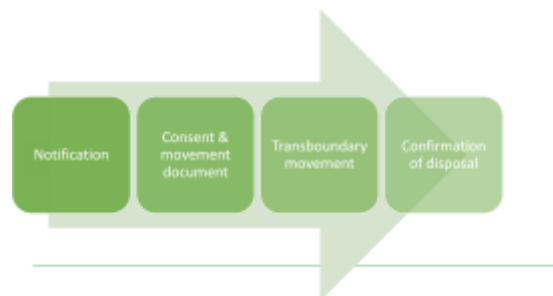
The second category of waste covered by the Convention, “other wastes”, is defined in Annex II. It includes household wastes and residues arising from the incineration of household wastes.

## What is illegal traffic?

Any transboundary movement of hazardous wastes or other wastes:

- a. without notification to all States concerned;
- b. without the consent of a State concerned;
- c. with consent obtained through falsification, misrepresentation or fraud;
- d. that does not conform in a material way with the documents;
- e. that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention.

## Basel Convention - Four-step process



### Guidance Manuals

Under the auspices of the Basel Convention Secretariat a number of technical manuals have been developed. These can be accessed [on-line](#)

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) [PREVENT](#) portal provides an online depository of training and capacity building materials. It requires registration and approval.



The PREVENT portal is a joint activity by [the WasteForce project](#) (funded by the European Union's Internal Security Fund — Police (ISFP/2017/AG/ENV/821345), [the LIFE SWEAP project](#) (funded by the LIFE Programme of the European Union) and the SPIDERWEB Project (jointly financed by the European Union and the Federal Republic of Germany).

## Prior Informed Consent

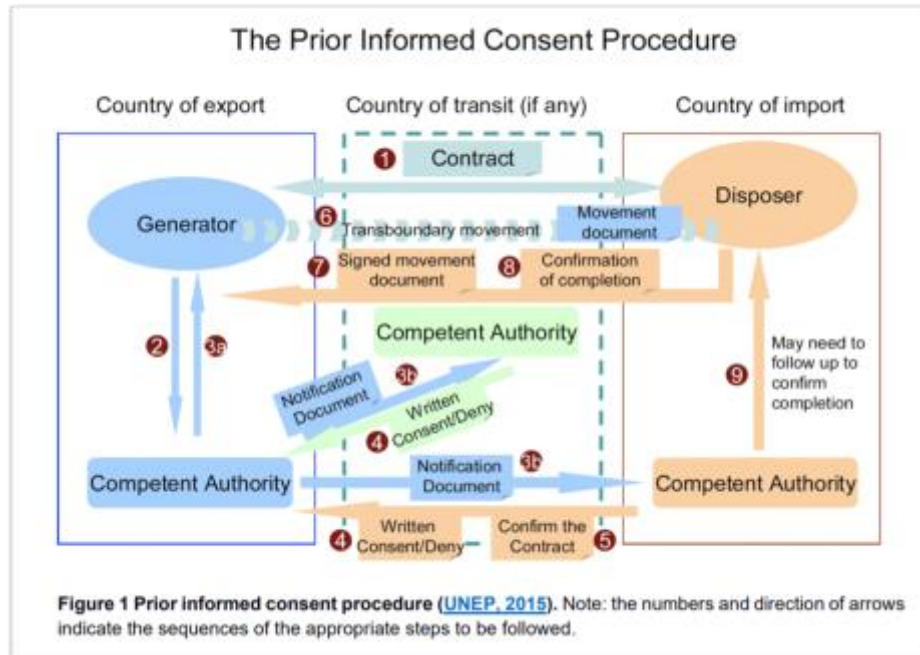
The Basel Convention contains a detailed Prior Informed Consent (PIC) procedure with strict requirements for transboundary movement of hazardous wastes and other wastes. The procedures form the heart of the Basel Convention control system and are based on four key stages

1. Notification;
2. Consent and issuance of movement document;
3. Transboundary movement; and
4. Confirmation of disposal.

The important issue to remember is that the PIC procedure is to occur before the hazardous waste is transported. The competent authority of the country of import must give written consent to the shipment of waste prior to the export. How these provisions are applied will be determined by the national legislation of the country of import.

The PIC procedure also requires that disposal of the waste has occurred in a lawful manner.





## Notification document for transboundary movements/shipments of waste

The competent national authorities in each state of export will be responsible for providing and issuing the notification and movement documents (in both paper and electronic versions). When doing so, they will use a numbering system, which allows a particular consignment of waste to be traced. The numbering system should be prefixed with the country code that can be found in the ISO standard 3166 abbreviation list.

The notification document is intended to provide the competent authorities of countries concerned with the information they need to assess the acceptability of proposed waste movements. The document includes space for the competent authorities to acknowledge receipt of the notification and, where required, to consent in writing to a proposed movement.

The movement document is intended to travel with a consignment of waste at all times from the moment it leaves the waste generator to its arrival at a disposal or recovery facility in another country. Each person who takes charge of a transboundary movement is to sign the movement document either upon delivery or receipt of the wastes in question.

Finally, the document is to be used by the relevant disposal or recovery facility to certify that the waste has been received and that the recovery or disposal operation has been completed.

Normally, the importer would be the disposal or recovery facility given in block 10 of the notification document that follows. In some cases, however, the importer may be another person, for example a recognized trader, a dealer, a broker, or a corporate body, such as the headquarters or mailing address of the receiving disposal or recovery facility in block 10. In order to act as an importer, a recognized trader, dealer, broker or corporate body must be under the jurisdiction of the country of import and

possess or have some other form of legal control over the waste at the moment the shipment arrives in the country of import.

The following documents are an example of the notification documentation that is required for all hazardous waste shipments.

1. The notification documents, and other documents, contain all the information about the transport of the waste and its category and destination.
2. If this information is wrong or fraudulent then an offence may have been committed.
3. PIC only relates to hazardous waste. This will be impacted by the Ban Amendment.
4. Movement forms are required for all waste and waste to be recycled. Mislabeled waste may give rise to offences.
5. Consent from ALL Consent Authorities are required before the shipment starts. Boxes 19 and 20 are very important and must be completed and signed.

<b>1. Exporter - notifier</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail:		<b>3. Notification No:</b> <b>Notification concerning</b> A.(i) Individual shipment: <input type="checkbox"/> (ii) Multiple shipments: <input type="checkbox"/> B.(i) Disposal (1): <input type="checkbox"/> (ii) Recovery: <input type="checkbox"/> C. Pre-consented recovery facility (2;3) Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>2. Importer - consignee</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail:		<b>4. Total intended number of shipments:</b> <b>5. Total intended quantity (4):</b> Tonnes (Mg): m <sup>3</sup> :	
<b>8. Intended carrier(s)</b> Registration No: Name(7): Address:  Contact person: Tel: Fax: E-mail: Means of transport (5):		<b>6. Intended period of time for shipment(s) (4):</b> First departure: Last departure: <b>7. Packaging type(s) (5):</b> <b>Special handling requirements (6):</b> Yes: <input type="checkbox"/> No: <input type="checkbox"/>	
<b>9. Waste generator(s) - producer(s) (1;7;8)</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail: Site and process of generation (6)		<b>11. Disposal / recovery operation(s) (2)</b> D-code / R-code (5): Technology employed (6):  Reason for export (1;6):	
<b>10. Disposal facility (2):</b> <input type="checkbox"/> <b>or recovery facility (2):</b> <input type="checkbox"/> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail: Actual site of disposal/recovery:		<b>12. Designation and composition of the waste (6):</b>   <b>13. Physical characteristics (5):</b>   <b>14. Waste identification (fill in relevant codes)</b> (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (5): (ix) UN class (5): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
<b>15. (a) Countries/States concerned, (b) Code no. of competent authorities where applicable, (c) Specific points of exit or entry (border crossing or port)</b>			
State of export - dispatch		State(s) of transit (entry and exit)	
State of import - destination			
(a)			
(b)			
(c)			
<b>16. Customs offices of entry and/or exit and/or export (European Community):</b> Entry: Exit: Export:			
<b>17. Exporter's - notifier's / generator's - producer's (1) declaration:</b> I certify that the information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.			<b>18. Number of annexes attached</b>
Exporter's - notifier's name: Date: Signature: Generator's - producer's name: Date: Signature:			
<b>FOR USE BY COMPETENT AUTHORITIES</b>			
<b>19. Acknowledgement from the relevant competent authority of countries of import - destination / transit (1) / export - dispatch (9):</b> Country: Notification received on: Acknowledgement sent on: Name of competent authority: Stamp and/or signature:		<b>20. Written consent (1;8) to the movement provided by the competent authority of (country):</b> Consent given on: Consent valid from: until: Specific conditions: No: <input type="checkbox"/> If Yes, see block 21 (6): <input type="checkbox"/> Name of competent authority: Stamp and/or signature:	
<b>21. Specific conditions on consenting to the movement document or reasons for objecting</b>			

<b>DISPOSAL OPERATIONS (block 11)</b>			
D1 Deposit into or onto land, (e.g., landfill, etc.)			
D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)			
D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)			
D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)			
D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)			
D6 Release into a water body except seas/oceans			
D7 Release into seas/oceans including sea-bed insertion			
D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list			
D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.)			
D10 Incineration on land			
D11 Incineration at sea			
D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.)			
D13 Blending or mixing prior to submission to any of the operations in this list			
D14 Repackaging prior to submission to any of the operations in this list			
D15 Storage pending any of the operations in this list			
<b>RECOVERY OPERATIONS (block 11)</b>			
R1 Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) - Use principally as a fuel or other means to generate energy (EU)			
R2 Solvent reclamation/regeneration			
R3 Recycling/reclamation of organic substances which are not used as solvents			
R4 Recycling/reclamation of metals and metal compounds			
R5 Recycling/reclamation of other inorganic materials			
R6 Regeneration of acids or bases			
R7 Recovery of components used for pollution abatement			
R8 Recovery of components from catalysts			
R9 Used oil re-refining or other reuses of previously used oil			
R10 Land treatment resulting in benefit to agriculture or ecological improvement			
R11 Uses of residual materials obtained from any of the operations numbered R1-R10			
R12 Exchange of wastes for submission to any of the operations numbered R1-R11			
R13 Accumulation of material intended for any operation in this list.			
<b>PACKAGING TYPES (block 7)</b>	<b>H- AND UN &lt; 14)</b>		
1. Drum	UN		
2. Wooden barrel	Class	H-code	Characteristics
3. Jerrican			
4. Box			
5. Bag	1	H1	Explosive
6. Composite packaging	3	H3	Flammable liquids
7. Pressure receptacle	4.1	H4.1	Flammable solids
8. Bulk	4.2	H4.2	Substances or wastes liable to spontaneous combustion
9. Other (specify)	4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases
	5.1	H5.1	Oxidizing
	5.2	H5.2	Organic peroxides
	6.1	H6.1	Poisonous (acute)
	6.2	H6.2	Infectious substances
	8	H8	Corrosives
	9	H10	Liberation of toxic gases in contact with air or water
	9	H11	Toxic (delayed or chronic)
	9	H12	Ecotoxic
	9	H13	Capable, by any means, after disposal of yielding another material, e.g., leachate, which possesses any of the characteristics listed above
<b>MEANS OF TRANSPORT (block 8)</b>			
R = Road			
T = Train/rail			
S = Sea			
A = Air			
W = Inland waterways			
<b>PHYSICAL CHARACTERISTICS (block 13)</b>			
1. Powdery/powder			
2. Solid			
3. Viscous/paste			
4. Sludgy			
5. Liquid			
6. Gaseous			
7. Other (specify)			

## Movement Form

In practice copies of the movement form are accepted but extra attention is needed for the number of shipments mentioned in box 2.

In Europe every movement of waste need to be pre-notified to all CA's involved, three days prior to the actual shipment takes place.

Special attention needs to be taken with the information in boxes 15, 18 and 19.

<b>1. Corresponding to notification No:</b>		<b>2. Serial/total number of shipments:</b> /	
<b>3. Exporter - notifier</b> Registration No: Name: Address: Contact person: Tel: Fax: E-mail:		<b>4. Importer - consignee</b> Registration No: Name: Address: Contact person: Tel: Fax: E-mail:	
<b>5. Actual quantity:</b> Tonnes (Mg): m <sup>3</sup> :		<b>6. Actual date of shipment:</b>	
<b>7. Packaging</b> Type(s) (1):		Number of packages:	
<b>Special handling requirements:</b> (2) Yes: <input type="checkbox"/> No: <input type="checkbox"/>			
<b>8.(a) 1<sup>st</sup> Carrier</b> (3): Registration No: Name: Address: Tel: Fax: E-mail:	<b>8.(b) 2<sup>nd</sup> Carrier:</b> Registration No: Name: Address: Tel: Fax: E-mail:	<b>8.(c) Last Carrier:</b> Registration No: Name: Address: Tel: Fax: E-mail:	
----- To be completed by carrier's representative ----- <span style="float: right;">More than 3 carriers (2) <input type="checkbox"/></span>			
<b>Means of transport (1):</b> Date of transfer: Signature:	<b>Means of transport (1):</b> Date of transfer: Signature:	<b>Means of transport (1):</b> Date of transfer: Signature:	
<b>9. Waste generator(s) - producer(s)</b> (4,5,6): Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Site of generation (2):		<b>12. Designation and composition of the waste (2):</b>	
<b>10. Disposal facility</b> <input type="checkbox"/> <b>or recovery facility</b> <input type="checkbox"/>		<b>13. Physical characteristics (1):</b>	
Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Actual site of disposal/recovery (2)		<b>14. Waste identification</b> (10 in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)); (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (1): (ix) UN class (1): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
<b>11. Disposal/recovery operation(s)</b> D-code / R-code (1):		<b>15. Exporter's - notifier's / generator's - producer's (4) declaration:</b> I certify that the above information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantee is in force covering the transboundary movement and that all necessary consents have been received from the competent authorities of the countries concerned. Name: Date: Signature:	
<b>16. For use by any person involved in the transboundary movement in case additional information is required</b>			
<b>17. Shipment received by importer - consignee (if not facility):</b>		Date: Name: Signature:	
<b>TO BE COMPLETED BY DISPOSAL / RECOVERY FACILITY</b>			
<b>18. Shipment received at disposal facility</b> <input type="checkbox"/> <b>or recovery facility</b> <input type="checkbox"/>		<b>19. I certify that the disposal/recovery of the waste described above has been completed.</b>	
Date of reception: Quantity received: Tonnes (Mg): m <sup>3</sup> : Approximate date of disposal/recovery: Disposal/recovery operation (1): Name: Date: Signature:		Accepted: <input type="checkbox"/> Rejected*: <input type="checkbox"/> *Immediately contact competent authorities Name: Date: Signature and stamp:	

<b>FOR USE BY CUSTOMS OFFICES (if required by national legislation)</b>			
<b>20. Country of export - dispatch or customs office of exit</b> The waste described in this movement document left the country on: Signature: Stamp:		<b>21. Country of import - destination or customs office of entry</b> The waste described in this movement document entered the country on: Signature: Stamp:	
<b>22. Stamps of customs offices of transit countries</b>			
Name of country: Entry:	Exit:	Name of country: Entry:	Exit:
Name of country: Entry:	Exit:	Name of country: Entry:	Exit:

<b>DISPOSAL OPERATIONS (block 11)</b> D1 Deposit into or onto land, (e.g., landfill, etc.) D2 Land treatment, (e.g. biodegradation of liquid or sludgy discards in soils, etc.) D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.) D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.) D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment), etc. D6 Release into a water body except seas/oceans D7 Release into seas/oceans including sea-bed insertion D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.) D10 Incineration on land D11 Incineration at sea D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.) D13 Blending or mixing prior to submission to any of the operations in this list D14 Repackaging prior to submission to any of the operations in this list D15 Storage pending any of the operations in this list		<b>RECOVERY OPERATIONS (block 11)</b> R1 Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) - Use principally as a fuel or other means to generate energy (EU) R2 Solvent reclamation/regeneration R3 Recycling/reclamation of organic substances which are not used as solvents R4 Recycling/reclamation of metals and metal compounds R5 Recycling/reclamation of other inorganic materials R6 Regeneration of acids or bases R7 Recovery of components used for pollution abatement R8 Recovery of components from catalysts R9 Used oil re-refining or other reuses of previously used oil and treatment resulting in benefit to agriculture or ecological improvement R10 residual materials obtained from any of the operations numbered R1-R10 R11 Exchange of wastes for submission to any of the operations numbered R1-R11 R12 Accumulation of material intended for any operation in this list	
<b>PACKAGING TYPES (block 7)</b> 1. Drum 2. Wooden barrel 3. Jerrican 4. Box 5. Bag 6. Composite packaging 7. Pressure receptacle 8. Bulk 9. Other (specify)		<b>H-CODE AND UN CLASS (block 14)</b> UN class H-code Characteristics 1 H1 Explosive 3 H3 Flammable liquids 4.1 H4.1 Flammable solids 4.2 H4.2 Substances or wastes liable to spontaneous combustion 4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases 5.1 H5.1 Oxidizing 5.2 H5.2 Organic peroxides 6.1 H6.1 Poisonous (acute) 6.2 H6.2 Infectious substances 8 H8 Corrosives 9 H10 Liberation of toxic gases in contact with air or water 9 H11 Toxic (delayed or chronic) 9 H12 Ecotoxic 9 H13 Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above	
<b>MEANS OF TRANSPORT (block 8)</b> R = Road A = Air T = Train/rail W = Inland waterways S = Sea			
<b>PHYSICAL CHARACTERISTICS (block 13)</b> 1. Powdery / powder 5. Liquid 2. Solid 6. Gaseous 3. Viscous / paste 7. Other (specify) 4. Sludgy			

## Illegal traffic: Take Back Procedure

In case of illegal traffic, the Basel Convention requires the State of export to ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import.

Complications can occur, such as determining the ownership of the waste.

The law of some countries requires a successful conviction before steps can be taken to reimport an illegal shipment.

Once an illegal shipment of hazardous waste has been intercepted, the country of import is obliged to adopt measures for arranging the return of the waste to the country of export.

Effective cooperation between competent authorities is a priority to ensure that the take back procedure can work effectively.

This topic is not covered in the scenarios. More information on this topic can be found at the [Basel Convention WebSite](#).

## Scenario 1 - Leaving Port Europe on the slow boat to Country Asia



**Clean Waste International Ltd (CWI)** is a company registered in Country Europe that exports waste to Country Asia. It has been doing so for many years.

- **CWI** used a broker as intermediary to manage a deal to send the waste paper to two delivery sites in Country Asia.
- The broker took up a request from a Country Asia client **Only Pure Waste Ltd (OPW)** in August 2020 to arrange shipment of 5,000 tonnes of mixed waste paper from **CWI**.
- A total price of Euro 300,000 was agreed for the export shipment.
- The broker arranged to ship a second shipment of 4,000 tonnes of mixed waste paper in a contract worth Euro 290,000.
- **CWI** transported the containers with **We Ship Everything Ltd (WSE)** shipping company.
- **CWI** claimed its exports were regularly inspected by the Country Asia and Port of Asia authorities who never made complaints, and that its clients were capable of generating significant quantities of paper from the bales supplied.

**Clean Waste International Ltd (CWI)** fills in the relevant customs and movement forms for the transport of the mixed paper waste.

Before loading to the ship some problems were detected, with smells and leaks coming from some of the **We Ship Everything Ltd (WSE)** containers.

- A search of seven 25-tonne shipping containers bound for Port Asia at Port Europa in Country Europe was conducted after contaminants could be seen leaking out of bales that were not broken open by inspectors.
- Preliminary investigations reveal diverse discarded debris such as shoes, plastic bags, human waste, socks, hand towels, unused condoms, video tape, toiletries, electric cables, and nappies and sanitary towels.

## What happens next

- What steps can be taken upon first becoming suspicious?
- Who should take them?
- What investigations should be carried out?
- What about the movement documentation?

## Ocean Bill of Lading

Shipper: Clean Waste International Ltd Downing Street 8 8765CZ , ABC City Country Europe		Booking Number: <b>EU160221EB</b>		
		Forwarder: We Ship Everything Sea Road 27 Port City Country Europe	FMC #: <b>567498</b>	
Consignee: Only Pure Waste Ltd Asoke Montri Road, 9 FL DEF City Country Asia		Rate Reference Number <b>Y46LGWP</b>		
		Temperature Control Range from: °C to: °C		
Notify Party Only Pure Waste Ltd Asoke Montri Road, 9 FL DEF City Country Asia		Dangerous Goods Consignments Require: <input type="checkbox"/> Shipper's Declaration <input type="checkbox"/> Container Packing Certificate <input type="checkbox"/> Emergency Response Information		
Precarriage By: <b>WSE Ltd</b>	Port of Receipt: <b>Port Europe</b>			
Vessel: <b>ONE Way</b>	Port of Loading: <b>Port Europe</b>		Type of Movement (traffic routing)	
Port of Discharge: <b>Port Asia</b>	Place of Delivery: <b>DEF City</b>		On Carriage By:	
<b>PARTICULARS FURNISHED BY SHIPPER</b>				
Container & Seal Number(s) Marks/Numbers	Number of Packages	Description of Packages and Goods	Gross Weight in Kilos	Measurement in CBM
XXXX345654-8/Z321456	42	LGY46 WASTE PAPER	25.000	
XXXX236789-0/Z987678	42	LGY46 WASTE PAPER	24.500	
XXXX321654-9/Z321987	42	LGY46 WASTE PAPER	25.500	
XXXX654789-1/Z567432	42	LGY46 WASTE PAPER	24.000	
XXXX231224-5/Z114598	42	LGY46 WASTE PAPER	26.000	
XXXX988775-3/Z556348	42	LGY46 WASTE PAPER	25.250	
XXXX234385-6/Z445889	42	LGY46 WASTE PAPER	24.000	
		HS4707		
Type of B/Lading				
PLEASE INDICATE REQUIREMENTS				
X Original		Ocean Freight: <input type="checkbox"/> Prepaid X Collect		
<input type="checkbox"/> Express		Destination Terminals: <input type="checkbox"/> Prepaid XCollect		
Prepaid Invoice Payable By:				
Document Release Instructions		Call for Pickup of Documents		
Collect at destination		phone:		
		name: ext:		
Special Instructions/Remarks				
Signature of Shipper: <b>Shipping Line</b> Date: <b>16-02-2021</b>				



Documents associated with transport of waste shipments include Bill of Lading Instructions, contracts pertaining to the shipment of waste, and invoices. All of which may be useful evidence in the event of any alleged offence.

<iframe  
 src="https://onedrive.live.com/embed?cid=E6CDF914E8B2DADD&resid=E6CDF914E8B2DADD%211149  
 &authkey=APrKVgREfbDhhhM&em=2" width="476" height="288" frameborder="0"  
 scrolling="no"></iframe>

Description	Quantity	Unit Price	Price	VAT%
Low Grade Mixed Paper Y46, unsorted from	175 ton	30	5250	0%
Municipal waste, loaded in 7 containers	1			0%
Shipping				
	7	500	3500	
Payment in USD				
CIF, Seaport Country Asia				
			Subtotal	<u>8750</u>
			VAT Reverse Charge (0%)	<u>0,00</u>
			<b>Total</b>	<b>\$ 8750</b>

**Payment terms:** Payment within 60 days of invoice date  
**Payment details:** Payment by money transfer to account:  
 Bank: AA Bank Account Name: CWI Ltd  
 Swift/Sort Code: XYZA2AAU  
 IBAN: AA 99 BANK 0123 4567 89  
 Payment Reference: LGWPY46

**ANNEX VII - INFORMATION ACCOMPANYING SHIPMENTS OF WASTE**

<b>1. Person who arranges the shipment</b> Name: CWI Ltd Address: Downing street 8, 8765CZ, City ABC, Country Europe Contact person: T. Bin Tel.: +31 612345678 Fax: E-mail: T.Bin@CWI.com		<b>2. Importer/consignee Name:</b> OPW Ltd Address: Asoke Montri Road, 9876XZ, City DEF, Country Asia Contact person: C.E. Thing Tel.: +675 456 76 893 Fax: E-mail: CEThing@OPW.com							
<b>3. Actual quantity:</b> 2.5 Tonnes (Mg): m <sup>3</sup> :		<b>4. Actual date of shipment:</b> 25-02-2021							
<b>5.(a) 1<sup>st</sup> carrier (2)</b> Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	<b>5.(b) 2<sup>nd</sup> carrier</b> Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	<b>5.(c) 3<sup>rd</sup> carrier</b> Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:							
<b>6. Waste generator (3)</b> <b>Original producer(s), new producer(s) or collector:</b> Name: CWI Ltd Address: Downing street 8, City ABC, Country Europe Contact person: T. Bin Tel.: 31 612345678 Fax: E-mail: T.Bin@CWI.com		<b>8. Recovery operation (or if appropriate disposal operation in the case of waste referred to in Article 3(4)):</b> R-code/D-code: R3							
<b>7. Recovery facility <input type="checkbox"/> Laboratory <input type="checkbox"/></b> Name: OPW Ltd Address: Asoke Montri Rd, 9 FL, 9876XZ, DEF, Country Asia Contact person: C.E. Thing Tel.: +675 456 76 893 Fax: E-mail: CEThing@OPW Ltd		<b>9. Usual description of the waste:</b> <b>Low Grade Mixed Paper</b>							
<b>10. Waste identification (fill in relevant codes):</b> (i) Basel Annex IX: B3020 (ii) OECD (if different from (i)): (iii) Annex IIIA (*): (iv) Annex IIIB (*): (v) EC list of wastes: 15.01.01 (vi) National code: 47.07		<b>11. Countries/states concerned:</b> <table border="1"> <thead> <tr> <th>Export/dispatch</th> <th>Transit</th> <th>Import/destination</th> </tr> </thead> <tbody> <tr> <td>Country Europe</td> <td></td> <td>Country Asia</td> </tr> </tbody> </table>		Export/dispatch	Transit	Import/destination	Country Europe		Country Asia
Export/dispatch	Transit	Import/destination							
Country Europe		Country Asia							
<b>12. Declaration of the person who arranges the shipment:</b> I certify that the above information is complete and correct to my best knowledge. I also certify that effective written contractual obligations have been entered into with the consignee (not required in the case of waste referred to in Article 3(4)). Name: T. Bin Date: 23-02-2021 Signature: XXXXX									
<b>13. Signature upon receipt of the waste by the consignee:</b> Name: Date: Signature:									
<b>TO BE COMPLETED BY THE RECOVERY FACILITY OR BY THE LABORATORY:</b>									
<b>14. Shipment received at recovery facility <input type="checkbox"/> or laboratory <input type="checkbox"/></b>		Quantity received: Tonnes (Mg): m <sup>3</sup> : Name: Date: Signature:							

## Part 2 - Arrival in Port Asia - discovery and inspection



Illegal shipments to waste sites can be detected:

- during transport checks (port or road inspections)

- during checks of waste producer's documentation;
- during the supervision of waste treatment sites;
- during inspections of storage facilities/dock storage;
- in the context of accidents or problems on sites;
- on the basis of reports made to authorities or the police

Waste shipments will require approval and permits. Many waste offences are documentation offences, at the point of exportation or importation, where there are errors or problems with the documentation. This can be due to negligence or part of deliberate or fraudulent activities.

The first indication of an illegal shipment can be when customs or other border control agencies check the documentation attached to the shipment of waste.

Checking of documentation attached to waste shipments can require close cooperation between customs and other investigating and prosecution officials and other competent authorities of countries of import/transit/export.

Below are the links to the Watch-It app for waste - Waste and Chemicals Inspection Tool (Watch-IT)

This app is developed to support law enforcement officers when performing inspections of shipments of waste and chemicals that are covered by the Basel, Rotterdam and Stockholm Conventions and related regional agreements. It merely offers guidance and references and does not aim to offer legal or binding advice in any way, form, or shape.

<iframe

src="https://onedrive.live.com/embed?cid=E6CDF914E8B2DADD&resid=E6CDF914E8B2DADD%211148&authkey=ACLKiozKo7-PNiY&em=2" width="476" height="288" frameborder="0" scrolling="no"></iframe>





### **Investigation and Evidence Collection**

- Customs can immediately access a range of data concerning the shipment and inspect the contents of the container
- Illegal waste shipments can often be detected by reviewing information contained in shipping manifests and information from other agencies to build risk profiles
- Interaction between the competent authorities of the country of export, country of import and countries of transit is necessary.
- Formal and informal communication - WCO Customs Enforcement Network (CEN) or INTERPOL National Central Bureaus (NCB)

### **Evidence Collection & protection**

- Collection of documents related to the transport or generation of wastes, related to plans of export/import, related to recycling activities, disposal facilities and any other documents
- Visual Inspection by authorised inspectors. This can include taking photographs from the doors of the containers closed with the container number, the seal, close-up of the seal, overview of the cargo, close up of the cargo and a very detailed description of what is seen and smelt.
- Identification of waste (categorization) and determination of waste volume

- If necessary, sampling in accordance with relevant guidance by the competent authorities and requirements from the prosecuting authority, for example INTERPOL, [Pollution Crime Forensic Investigation Manual, 2014](#)
- Evidence, including the waste material and sampling records, must be protected and safely stored during the criminal trial.
- The chain of custody for evidence must also be protected in accordance with prosecution guidelines.



### Financial Investigations

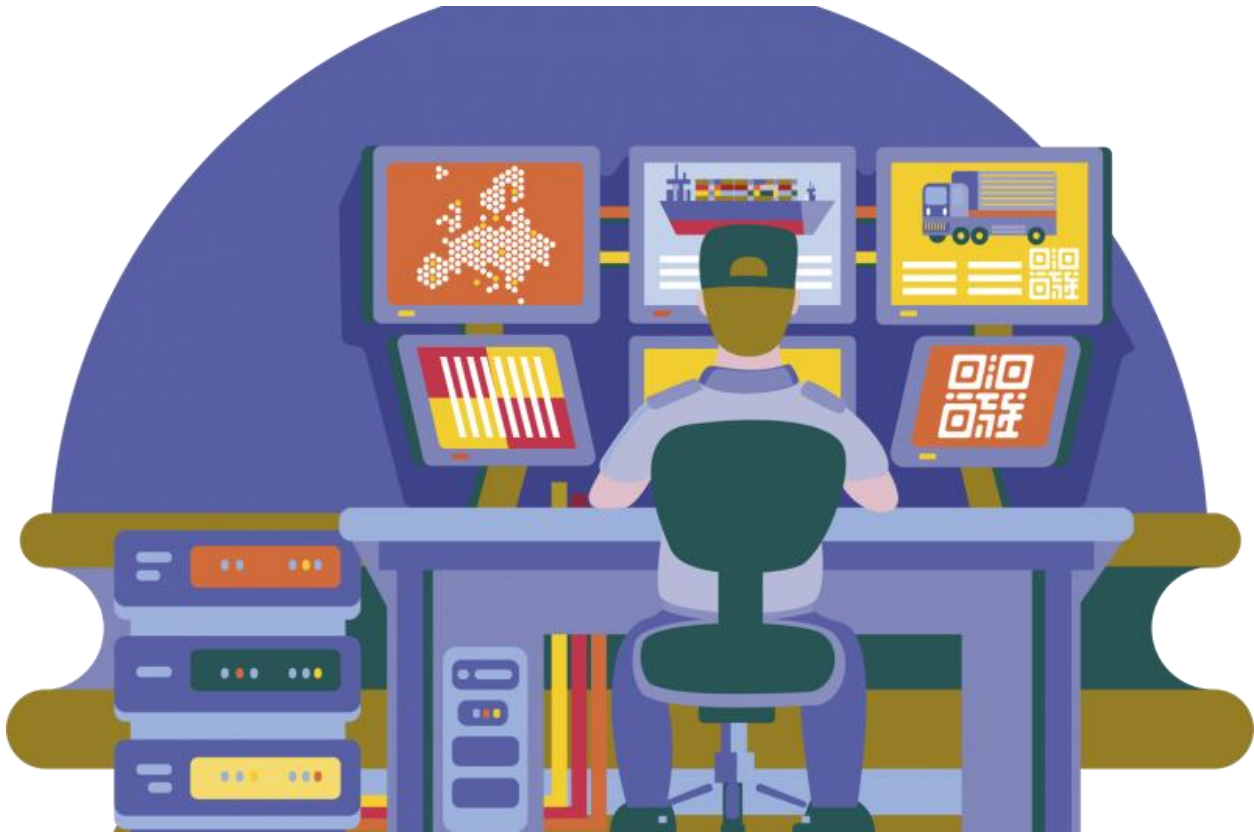
- Financial investigative techniques can be essential for the build-up of successful investigative strategies.
- Intergovernmental organisations such as Europol can provide support through cross matching in datasets, analysis of suspicious transactions, organisation of cross-border operations, and innovative technological solutions like Universal Forensic Extraction Device and Europol Mobile Office among other things.

Financial investigations steps:

- Analysis of a specific payment

- Analysis of the income and expenditures (indirect method for proving illegal income)
- Analysis of fraudulent financial transactions
- Analysis of significant differences between declared waste management costs and standard waste management costs

## Scenario 2 - Arrival in Port Asia - discovery and inspection



**Clean Waste International Ltd (CWI)** has claimed that the 30 containers for recycling in Country Asia are all mixed paper for recycling.

Upon closer inspection of the movement forms, and acting from a tip-off by Country Europe investigators, it is found that there are some errors on the forms.

It is decided to conduct an inspection of some of the containers from **We Ship Everything Ltd (WSE)** for **Clean Waste International**.

On arrival at Port Asia some problems were detected with smells and leaks coming from some of the **We Ship Everything Ltd (WSE)** containers. A search of seven 25-tonne shipping containers was conducted after contaminants could be seen leaking out of bales that were not broken open by inspectors.

There are 30 containers in one shipment. Only some of the containers have been inspected.

Preliminary investigations reveal diverse discarded debris such as shoes, plastic bags, human waste, socks, hand towels, unused condoms, video tape, toiletries, electric cables, and nappies and sanitary towels.

Other inspections reveal that some containers contain mixed paper products and other containers are filled with masks and other medically related waste.

#### **What happens next?**

- What steps can be taken upon first becoming suspicious?
- What investigations should be carried out?
- Who should be contacted before any action is taken?

### **Part 3 - Prosecution and Penalties**



#### **The compliance policy for environmental crimes objectives**

A **compliance policy for the enforcement of environmental crimes** can assist to ensure that enforcement action will be proportionate to the seriousness of the contravention, that decisions about enforcement action will be impartial, based on available evidence and on the strategic objectives of the prosecuting authority.

The environmental crimes enforcement policy should:

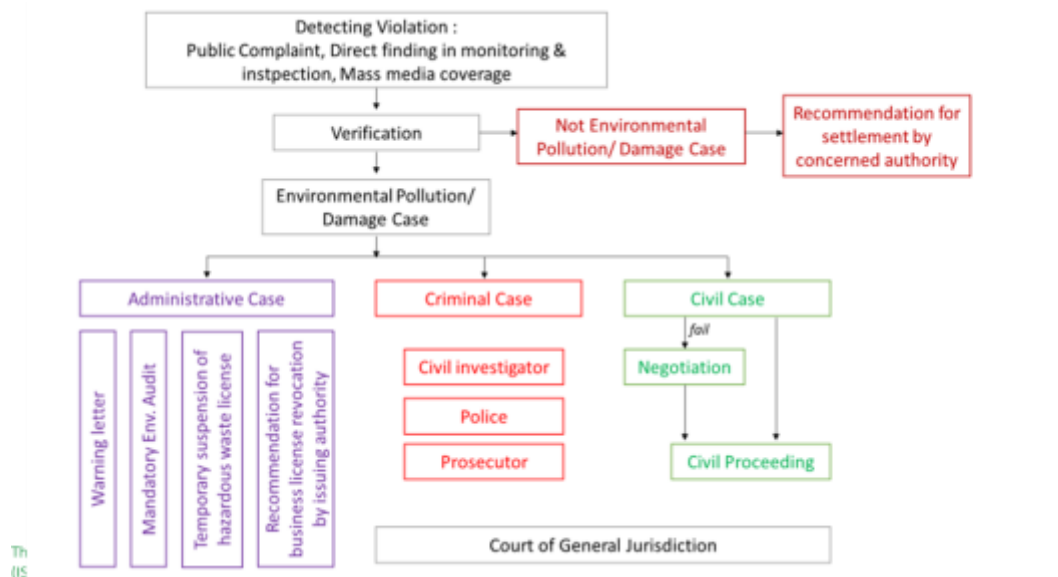
- Guide in the exercise of its enforcement and prosecution responsibilities;

- Inform stakeholders about statutory enforcement responsibilities, including exercising the discretion to prosecute;
- Explain how to determine the person or persons to be charged and the enforcement action in case of alleged breaches of legislation;
- Outline the possible enforcement actions;
- Encourage positive action, accountability, consultation and cooperation;
- Foster consistent, integrated and coordinated enforcement action.

Article 4(4) of the Basel Convention requires Parties to “take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention” and Article 9(5) requires Parties to introduce legislation to prevent and punish illegal shipments.

The [EU Environmental Crime Directive](#) also contains provisions relevant to the prosecution of waste crimes in the EU.

## Determining Liability for Waste Offences



### Who should be prosecuted?

It is necessary to identify all responsible parties involved in illegal waste transport and disposal.

For most waste crime, natural persons and legal persons involved can be the subject of prosecution:

- the generator;
- the exporter;
- the importer;



- the transportation company;
- the individuals completing the paperwork (freight forwarder, broker, shipping facilitator or coordinator); and
- the disposer.

The prosecutor will take the following into account:

Who was primarily responsible for the alleged offence, that is:

- Who committed the act?
- Who formed the intention (if relevant)?
- Who created the material circumstances leading to the alleged offence?
- Who benefited from the alleged offence?
- Where there is more than one alleged offender, what was the role of each alleged offender?

In case of prosecution of a corporation for an offence involving proof of a mental element, most environmental legislation provides that the state of mind can be established by proof that an officer, employee or agent, acting in the scope of their employment, had that state of mind. Many environmental offences are also strict liability offences.

Administrative Measures				
Withdrawal of licence	Warning Letters	Monetary Penalties	Clean-up Orders	Return-back Provisions
Civil Proceedings				
Monetary Penalties		Enforcement Undertakings		
Criminal Proceedings				
Fines		Imprisonment	Restitution Orders	

Table 1 Overview of Administrative, civil and criminal measures

## Purpose of sentencing

*“The ultimate objective when prosecuting cases of illegal traffic in hazardous and other wastes is to protect communities and the environment from the harmful consequences of improperly managed transboundary movement and disposal of hazardous and other wastes by punishing such crimes, and thus providing a deterrent.”* (Basel 2012, p.7)

- To stop offending = stop an illegal activity from continuing/occurring/recurring
- To restore and/or remediate = to put right environmental harm or damage
- To bring under regulatory control = aim to bring an illegal activity into compliance with the law
- To punish and/or deter = to punish an offender and/or deter future offending.

But sanctions types and levels vary greatly across countries (and sometimes within the same country)

## Penalties

Severity	Serious impact or risk of impact	Major impact or risk of impact	Moderate impact or risk of impact	Minor impact or risk of impact	Low impact or risk of impact
	<ul style="list-style-type: none"> <li>• permanent, or potential for permanent, long-term impact</li> <li>• impact is on or potentially on a wide-scale, or of great intensity</li> <li>• widespread or high level of public concern or impact to public safety about the incident</li> <li>• where offence is of an administrative nature, it severely undermines the legislative scheme or the offender provides false or misleading information.</li> </ul>	<ul style="list-style-type: none"> <li>• medium to long-term impact, or potential impact</li> <li>• impact is on or potentially on a medium to wide-scale, or of medium to great intensity</li> <li>• high level of public concern or impact to public safety</li> <li>• where the offence is of an administrative nature, it undermines the legislative scheme or the offender conceals information or avoids liability for fees or taking necessary actions to prevent offence.</li> </ul>	<ul style="list-style-type: none"> <li>• temporary to medium-term impact, or potential impact</li> <li>• impact is on or potentially on a localised to medium scale, or is of a low to medium intensity</li> <li>• moderate level of public concern or impact to public safety</li> <li>• where the offence is of an administrative nature, it has a moderate impact on the legislative scheme, or the offender carelessly fails to comply with administrative requirement.</li> </ul>	<ul style="list-style-type: none"> <li>• transient impact, or potential impact</li> <li>• impact is on or potentially on a localised scale, or is of a low intensity</li> <li>• low level of public concern or impact to public safety</li> <li>• where the offence is of an administrative nature, it has no impact on the legislative scheme or is of an inadvertent nature.</li> </ul>	<ul style="list-style-type: none"> <li>• no impact, or potential impact</li> <li>• no public concern or impact to public safety</li> <li>• where the offence is of an administrative nature, it could not have been prevented.</li> </ul>

**Table 2: Criteria to be considered in determining severity of the offence.**

Factors which may be considered at the prosecution level, in preparing the sentence submissions:

1. The impacts or potential impacts resulting from the offence, including;
  - the seriousness of the impact, or risk of impact, on the environment;
  - the potential for the impacts to be rectified or mitigated.
2. The culpability of the offender, including:
  - the steps taken by the defendant to rectify or mitigate the impacts;
  - the level of cooperation by the defendant;
  - any prior convictions of the defendant relevant to the matter;
  - any benefit or profit derived by the defendant due to the offence.
3. Whether the level of penalty is sufficient to deter others from similar conduct.
4. The prevalence of the offence.

5. The availability and appropriateness of alternative sentencing orders.
6. The maximum penalty for the offence.
7. Sentencing precedents or comparative cases.



Sentencing  
Council

**Environmental  
Offences**  
Definitive Guideline

1 - The Sentencing Council has developed guidelines on environmental offences. This can be downloaded [here](#).

## Scenario 3 - Prosecution and Penalties



Is there an environmental enforcement policy in force?

Who will make the decision to prosecute?

What action - civil, administrative, criminal - will be taken?

Which parties should be prosecuted?

- The exporting company - **Clean Waste International Ltd (CWI)**
- The Country Asia client - **Only Pure Waste Ltd (OPW)**
- The shipping company - **We Ship Everything Ltd (WSE)**
- The waste facility or recycling facility

Is there any evidence of environmental harm or damage?

What other factors are relevant to the prosecution?

### Credits

This presentation was developed by Matthew Baird, Georgie Lloyd, Patti Moore, Huib van Westen, Vittoria Luda, Elise Veemeersch, Brett Classen, Federica Piovesana, Svetlana Popova.