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# COMMENTARY: THE BASEL CONVENTION, BACK TO THE FUTURE

by Pierre Portas\*

## INTRODUCTION

Once upon a time, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (“Basel Convention” or “Convention”) was a forum for North-South dialogue; a place where governments from all over the world worked together to bring a halt to the unscrupulous trade in hazardous wastes. The 1990s witnessed international solidarity and enthusiasm for the Convention’s potential. But as the 1990s wore on, an identity crisis emerged amid globalization and an ever growing economy. As the world became more prosperous and the cross-border flow of goods and recyclables expanded, it appeared that the converse was designed for the Basel Convention. From vision to commitments, the Convention entered into a collision with globalization. The Convention faces a constant struggle to

defend its relevance, competing with other issues for the attention of the international development and environmental communities. This article is a story about our common future. In a world of growing complexities and uncertainties, the Basel Convention brings certainty, transparency, and traceability as a means to protect human health and the environment worldwide.

## THE CHALLENGE OF HAZARDOUS WASTES

The 1989 Basel Convention, which entered into force in 1992, is the only global legal instrument to control transboundary movements of hazardous and other wastes and to ensure their environmentally sound management worldwide. As of February 2006, 167 Parties and the European Community are Parties to the Convention. Fourteen Basel Convention Regional and Coordinating Centers established on all continents under the authority of the Conference of the Parties facilitate and assist Governments and other public and private stakeholders in the implementation of the Basel Convention and related chemicals convention or protocols.

During its short life, the Basel Convention has been the place of many achievements. Its control system is applied worldwide, and its underlying concept of environmentally sound management is gaining broader acceptance. In short, the Basel Convention is functioning. At the national level, many countries have taken drastic measures to reduce environmental and public health harms from hazardous wastes and to improve performance of waste operators. In the past fifteen years, gigantic steps have been made in waste and hazardous waste management worldwide.

However, this progress is still not commensurate to the size of this multifaceted problem. Advances in technology and high consumerism accelerate the rate at which products become obsolete. Available estimates suggest that over one hundred million computers, monitors, and televisions become obsolete every year, and this number is growing. In many countries, hazardous products or substances make their way through the household waste stream and often end up in improperly managed disposal sites, which can impact human health and the environment. This is a burden with which public authorities have difficulties coping.

The Basel Convention is an indicator of the global response to hazardous waste issues. The increase in hazardous waste and its illegal trafficking do not reflect a failure of the Basel Convention. To the contrary, it points out the real need

### BOX 1:

#### TRENDS OF INCREASING HAZARDOUS WASTE PRODUCTION

- Effects of stabilizing non-hazardous industrial waste generation is bearing fruit, while hazardous waste generation will steadily increase due, in part, to the increase in the production of chemicals.
- Chemical releases from large-scale industrial plants will decrease, while such releases from small and medium size enterprises is likely to increase.
- Chemicals dumped in landfills are increasing.
- More and more complex chemicals are being put into products rendering such products potentially hazardous upon disposal.
- The fast-growing streams of post-consumer goods and end-of-life equipment are often overwhelming countries’ capacity to manage such wastes in a way to protect human health and the environment.
- The quantities of household waste, as well as construction and demolition wastes, will increase.
- Stricter environmental laws and occupational health safety standards make the disposal of hazardous wastes more expensive, resulting in an increase of illegal traffic of these wastes to developing countries or massive influx of used or end-of-life equipment.
- Economic globalization results in globalized trade of hazardous and other wastes.

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for bringing the Basel Convention to a new upward threshold so that the Convention can adapt itself to the expanding problems. Any measurable and recordable progress at the worldwide level requires a harmonized data set for policy-makers to adequately address the challenges, and the Convention provides a means to progress towards such harmonization. At the same time, the Convention is a unique forum where 167 countries and the European Community can work together and with other public and private partners to lay the foundation for bridging the technological gap among Parties. We have not done a good job in promoting the Basel Convention's relevance in terms of environmental and human health improvements. But this silence is not apathy.

### THE CONTINUING ROLE OF THE CONVENTION

Some believe that the Basel Convention is moving towards extinction, and that the reasons that stimulated negotiations for the Convention in the late 1980s are re-surfacing and require a renewed commitment to the irreplaceable role of this Convention. The quantity of hazardous wastes generated is steadily increasing and cannot be de-coupled from economic growth. Illegal traffic in wastes, including hazardous wastes, has reached unprecedented levels. The past is in front of us. Over time, environmental conventions, like the Basel Convention, which address specific problems tend to become disconnected from the development agenda; and as such, disappear from decision-makers' radar screens.

However, as the amount of global trade increases, so does the need for the Basel Convention. Any transboundary movement of hazardous wastes could also be considered a part of the global trading system. Transactions involving hazardous wastes can be a commercial service. Incineration plants or recycling facilities operate as any other industrial establishment. Collection, segregation, and transport of wastes are services to the community. The safe and proper handling of all wastes and the reduction of their quantities and hazardous qualities will minimize risks of lead poisoning, waterborne diseases, and harm from toxic, poisonous, or infectious substances. These safer handling procedures will provide economic opportunities for developed and developing countries. The development of sound recycling schemes will generate employment and facilitate integration of the informal sector into the mainstream economy. In addition, such systems may contribute to the development of best practices and sound regional recycling schemes.

The implementation of the Basel Convention reinforces the United Nations' mission and work: the Convention provides its added value to a highly complex and specialized field that no other international body or agreement addresses at the global level. The United Nations' ongoing reform recognizes the need to adjust the system in order to support an increasingly field-oriented UN Secretariat. The Parties to the Basel Convention have recognized this shift of emphasis in their 1999 Basel Declaration on Environmentally Sound Management ("Basel Declaration" or "Declaration"). In order for the Convention to be effective, every country needs to establish hazardous waste

systems and infrastructures that protect human health and the environment. Through the 2002 Draft Strategic Plan for the Implementation of the Basel Convention, the Parties are giving life to the Basel Declaration. For the past six years, Parties have re-emphasized the importance of working at the national level, involving municipalities, enriching nongovernmental organizations' on-the-ground experiences, and building partnerships with the private sector. The Basel Convention's influence and reach are growing worldwide and expanding regionally.

### THE COMPLEXITIES OF THE RECYCLING MOVEMENT

The disposal or recycling of end-of-life equipment or post-consumer goods is an emerging global issue. For instance, electronic wastes, or e-wastes, are the fastest growing waste stream in the world: they represent both a high asset and a huge problem. The quick economic gain from exporting or importing e-wastes overshadows its potential harm. Many governments are reluctant to impose the Basel Convention's strict control procedures on trade when it brings in revenue and generates jobs. This resistance is due in large part to a transformation of the waste hierarchy promoted for many years (prevention, reuse, recycling, energy recovery, and final disposal). To illustrate, industry wants to make a profit from wastes, and at the same time, governments in many developed countries are convinced that the environmental problems of the 1980s are behind them. As a result, governments focus on new policies to address wastes that reflect the realities of today and the future and often forget the lessons learned from the past. Such an approach strays from the emphasis on how wastes contaminate or pollute the environment and instead, focuses on a life-cycle approach to materials.

Priority in Europe is now given to recycling strategies. Development of regional recycling systems and networks is gaining momentum. Companies cross borders to set up regional recycling centers, exercise corporate social responsibility, and extend producer responsibility. The G8 countries are promoting the concept of the 3Rs (reduce, reuse, and recycle) towards a sound material-cycle society. The European Commission is also tabling a thematic strategy on the prevention and recycling of waste. This strategy aims to transform Europe into a recycling society. As a consequence, many governments are working towards reducing barriers to trade and encouraging re-use and recycling of materials. Establishing a loop for recyclables relies on the dissemination of knowledge from facilities in different parts of the world.

However, the international flow of recyclables has a hidden side. Countries are at different levels of economic development, and recycling facilities operate at different standards depending on the country. A sizeable part of local recycling is done in the informal sector. For example, governments are dealing with the issue of e-wastes differently, which leaves room for unscrupulous trade. Rapidly developing international and regional recycling schemes must be combined with a mechanism capable of providing information about and monitoring such schemes to ensure their accountability and soundness from environmental,

health, and economic perspectives. The high quantities of e-wastes exported to Asia and Africa are overwhelming importing countries' capacity to deal properly with these wastes. The quantities in some areas are so voluminous that old computers are being burnt to reduce size, generating massive and permanent air pollution (particularly dioxins). Information is insufficient to provide a level of certainty to enable customs officers to make a clear-cut demarcation line between usable products versus wastes and hazardous wastes. Above all, it is inevitable that wastes will follow the path of least resistance. When it comes to obsolete ships on their last voyage to recycling yards, divergence of opinion on whether or not the Basel Convention should apply results in legal and technical uncertainties. A level playing field is needed in regards to handling end-of-life equipment.

The growing production of chemicals is one of the main contributors to the increase in hazardous wastes. More and more of these chemicals find their way into products, and these products, in turn, become hazardous wastes at the time of disposal. This proliferation of chemicals means that among the e-wastes exported to Asia or Africa, for instance, the chances of finding electronic hazardous wastes such as cathode tube rays with lead-containing glass, printed circuit boards with heavy metals, fluorescent tubes (from crystal displays) with mercury, nickel-cadmium batteries, or plastic components with brominated flame

retardants are highly likely. No one can deny that these are hazardous materials. It is also important to recognize that one cannot leave waste to the sole principles of the market. Also clearly demonstrated is the pressing need for traceability of materials and transparency in the trade of recyclables.

In the case of end-of-life hazardous equipment destined for recycling, the Basel Convention will improve certainty (what to control), transparency (what moves across borders and how), and traceability (through its prior written notification procedure). A cross-border regional recycling system needs to integrate the international obligations of the Basel Convention to capture trade in hazardous wastes – not just a portion of the Convention but the treaty as a whole. Indeed, the temptation is great to use only parts of the Convention that are useful to economic objectives, while ignoring those that are perceived as obstacles to trade.

### NEXT STEPS FOR THE BASEL CONVENTION

Economic globalization has encouraged the establishment of global and regional recycling zones. The world of trade is fast changing. The predictable bipolar division of the last century has become more complex. How can the architecture of the Basel Convention respond to these changes? Its future lies in the capacity of Parties to anchor the Convention into regional realities. They have the tools to do this. Indeed, the Basel Convention is unique in having established a regional network composed of fourteen autonomous institutions operating on all continents. The Convention should transform itself into a global convention for the environmentally sound management of wastes in which the prior written advance notification procedure remains central in achieving the goals of the Convention. The goals include, but are not limited to:

- Minimizing the quantity and hazardous quality of wastes;
- Treating and disposing of wastes within proximity to where they are generated; and
- Reducing transboundary movements.

In addition to the three pillars above, predictability, transparency, and traceability of trade in recyclables need to encapsulate the changing patterns of trade as a necessary set of measures to protect human health and the environment. The Convention should provide the global standards for managing all wastes. Today, in a large number of countries, hazardous wastes are mixed with household wastes. As a result, neither the hazardous wastes nor the household wastes can be managed properly. The “all wastes” coverage should be based on two basic principles, the life-cycle approach to materials and integrated waste management (taking hazardous wastes out of the household waste stream).

Any regional recycling network or zone will operate under the assumption that regulatory authorities would ease restrictions regarding the flow of recyclables. The net result would be an increase in industrial waste exportation, and importation of end-of-life equipment. Consequently, a large part of the respon-

#### Box 2:

#### UNANTICIPATED CAUSES OF WASTE PROBLEMS

Since 2005, a multi-billion dollar international commodities market to trade carbon emissions has developed: great financial opportunities for companies to either reduce direct emissions or buy someone else's unused allowance. Carbon dioxide is naturally occurring and is a by-product (a waste) of industrial processes, in particular when burning fossil fuels or biomass. Reduction of emissions will have a beneficial effect in reducing waste releases. However, as side effects, we will witness an increase in the disposal of obsolete or inefficient electrical equipment, like generators. Likewise, shifts in industrial processes in the oil, cement, pulp, paper, and other concerned sectors to meet CO<sub>2</sub> reduction will generate different types of wastes and hazardous wastes. Whatever we do, positive or negative, has an impact on the quantity and property of wastes.

Similarly, when you send used computers to Africa to narrow the digital gap, you enable people to gain access to a powerful tool for their own development. At the same time, however, these used computers will become wastes in Africa, and African communities will have the burden to dispose of them when they reach the end of their useful life. So, there is a lesson to learn about this. We need to constantly keep in mind the need to address the issue of wastes in development and environmental models. Otherwise, we create a liability and often displace the waste problem to others.

sibility would remain with private operators in terms of protecting human health and the environment. Because of the cross-border nature of the trade in recyclables, national standards will not be enough. In order to bring consistency to environmental standards and best practices among all countries, a global, or at least regional, playing field must be achieved. Reaching this goal would require establishing a regional certification scheme for the environmentally sound management of hazardous and other wastes that could be delivered by independent institutions such as the Basel Convention regional centers. Such a certification scheme will be built on the environmentally sound principles adopted at the global level by the Parties to the Basel Convention and should provide incentives to improve performance of the recycling industry in reaching acceptable common environmental standards. Environmentally sound management

implies a continuous improvement in environmental performance. All of this is feasible and centers around values, ethics, solidarity, and commitment.

## CONCLUSION

We cannot close the book now. We have not finished our story: it will remain an endless tale of hope and frustrations. Dollars and cents will continue to be the catalyst. Governments are sizing down budgets; the environment is no longer at the top of people's concerns. Unemployment and insecurity are driving the agenda. Internationally, developed countries – the so-called donor countries – have their eyes on climate change issues. Development co-operation rightly focuses on poverty reduction. The Basel Convention is below the threshold level of political awareness. But, in the meantime, the world continues to build a toxic heritage for future generations.

