

**WORKSHOP ON ILLEGAL TRAFFIC
BRATISLAVA, SLOVAK REPUBLIC
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QUESTIONNAIRE NO. 1

Country: REPUBLIC of BULGARIA
Government entity completing the questionnaire: MOEW, Bulgarian Customs Agency, Directorate Border Police
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I. Procedures established to manage transboundary movements of hazardous wastes and other wastes

(a) Relevant rules, regulations, laws and administrative measures

1. Have you received training in your country on: i) the Basel Convention and its procedures; ii) the EU law and its procedures; iii) the UN Recommendations on the Transport of Dangerous Goods; and/or iv) the Globally Harmonized System of classification and labelling of chemicals (GHS)?

Yes, we have received training on EU law and its procedures.

2. Has your country enacted legislation that regulates the transboundary movement of hazardous wastes and other wastes? If yes, please specify.

Yes.

- Waste Management Act (Dated 18 September 2003, promulgated in State Gazette 86/2003, last amended SG 27.09.2005)

- Ordinance on the order and the procedures for the import, export and transit of waste and the cases when bank guarantee or insurance is required (adopted with CM Decree 298/28.11.2004, SG 102/19.11.2004)

- Law on Ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal, adopted 1996

3. Has the national legislation enacted in your country been harmonised with the requirements established by the Basel Convention and relevant EU legislation?

Yes.

4. Has your country prohibit the import of hazardous wastes for disposal?

Yes.

5. Does your national legislation consider any wastes other than those covered by the Basel Convention and EU legislation, as hazardous?

No.

6. Does your national legislation impose any additional requirements to those contained in the Basel Convention for the export, transit, or import, of hazardous wastes?

No.

7. What procedure do applicable rules require you to follow when a shipment of hazardous wastes or other wastes: i) is exported from your country; ii) is transiting through your country; and iii) is imported into your country?

We follow the notification procedure in all above mentioned cases.

8. Which governmental agency in your country has the main responsibility for managing transboundary movements of hazardous wastes and other wastes? Are there other governmental agencies involved? If yes, please specify: i) the role played by each entity (for example, data collection, verification of notifications and other data, investigation, prosecution), and ii) the legislation under which that role is conferred.

Each shipment shall be accompanied with:

- movement document when the hazardous wastes and wastes which are not included in Yellow and Red list. are imported, exported or transited;
- registration document when the wastes of Green list are imported;
- a licence on trade with wastes from ferrous and non-ferrous metals when the said wastes are imported.

The competent authority shall send a copy of the notification to the National Customs Agency within 3 days.

The customs authorities shall require presenting the above mentioned documents.

The customs authorities shall certify the movement documents according to art. 4, par. 7, subparagraph (c) of the Basel convention:

- upon import at the customs office of entry;

- upon export at the customs office of exit;
- upon transit at the customs offices of entry and exit.

Upon certification of movement document Customs authorities shall retain and preserve a copy of the said documents. When wastes are exported or transited Customs authorities send a copy of certified movement document to the competent authority.

According to Article 98 of National wastes management Law the customs authorities shall take the actions under Article 65, par.3 of the Customs Act upon waste import, export and transit in the cases of:

1. doubt as to the conformity of the shipment with the accompanying documents;
2. declared waste which is not accompanied by a permit, licence or registration document;
3. advance notification by the authority.

The Director of the Regional Inspectorate and Environment and Water covering the location of the border-crossing checkpoint shall render assistance to the customs authorities for clarification of the cases and making a decision on any such cases.

Article 65, par 3 of National Customs Act is a similar with article 248 of European Customs code. This article recommended if there are no normative restrictions or prohibitions the goods, under conditions determined by Customs law, may be given the requested customs destination regardless of their kind, quantity, origin, starting point or place of destination.

But this does not exclude implementation of prohibitions or restrictions in connection with protection of the national security, the public peace and moral, the life and health of the people, of animals and plants, as well as of the national wealth representing artistic, historical and archaeological value and the protection of the industrial and intellectual property.

While conducting customs control the customs bodies may postpone with a motivated decision, for the term of 5 days the permission of the required destination for the goods, as they inform about this the bodies, competent on performing the supervision, or control, connected with the relevant ban or limitation.

9. Has a task force been established to coordinate their activities? If yes, what is the structure and procedures of the task force? If no, how is the exchange of information and cooperation between these agencies organised? Are there bottlenecks?

There is a draft of Agreement between the MOEW and NCA concerning transboundary shipment of waste. This agreement shall regulate the interaction between the NCA and the MOEW in order to increase the effectiveness of the control and checks of transboundary movements of waste. In this way shall determine the order and the conditions for realization of the cooperation between NCA and the MOEW for accomplishment of joint action and exchange of information with transboundary shipment of waste and coordination of the mutually connected activities and implement the provision of art. 65, par. 3 of Customs Act and art.98 of National wastes management Law and The Ordinance on the cases for which permit or registration is required for import, export and transit of waste, establishment of bank guarantee and on control of transboundary shipment of waste. This draft will be approving on October 2006.

The cooperation shall prevent harmful and negative impact on the human health and environment resulting from shipments of waste.

The NCA actively co-operates with the other national law-enforcement bodies in detecting various types of offences and crimes regarding movement of goods and their customs clearance. As to the legislation, co-operation in this field is based on the following legal acts:

With the Ministry of Interior authorities: Instruction on co-operation between the customs authorities and the services of the Ministry of Interior in the field of prevention of customs offences and currency violations, which also includes the activity of the mobile team.

On 09.03.2004 an Agreement on interaction between the NCA and the Supreme Cassation Prosecution Office was adopted .

The following joint structures could be considered as examples:

- mobile teams

- Customs Consultative Committee for Assisting the Development of Customs Administration Interdepartmental Council on the Matters of Border Check-Points which includes the following institutions: NCA, NBPS, MEW, MRDPW, MLSP, MH and MAF.

Temporary structures for carrying out joint operations, thematic checks and inspections of customs warehouses and procedures are also being set up with legal acts (ordinances, instructions). Officials from the Tax Administration, Economic Police, DNPS, MAF, NBPS and MTC have taken part in such structures.

10. Do the governmental agencies identified in paragraph 6 cooperate/coordinate with other entities at the European/international level? How is the exchange of information between these entities organised? Has your country faced difficulties with this cooperation?

There are bilateral agreements on mutual administrative assistance in customs matters, conducts and coordinates the co-operation between NCA and other customs administrations on a bilateral basis. The Customs Intelligence and Investigation Directorate is responsible for the practical implementation of the agreements.

Within the competence of the Customs Investigation Department with the Customs Intelligence and Investigation Directorate inquires in the frames of the international cooperation as well as mutual administrative assistance with foreign customs are included. These inquires are carried out upon bilateral agreements on mutual assistance in customs matters signed by the Republic of Bulgaria, as well as upon Protocol 6 on mutual assistance in customs matters to the Europe Agreement. The purpose of the inquires carried out within the CI Department is to provide information and documents in order to clarify the circumstances on customs clearance of goods on foreign territory related to suspected customs violations.

NCA cooperates and coordinates with World Customs Organisation, uses RILO network, take a part in EU committee and group meetings, receive information from CEN database, has frequent contacts with Austria and other member states, uses intelligence from other public authorities within country, INTERPOL, ISUE, OLAF.

11. Does your country contribute to an international customs network? What are your experiences with this network?

NCA contributes to World Customs Organisation RILO network, ISUE, SEN database, OLAF.

12. How do you receive/transmit information from/to the Focal Point and/or the Competent Authority of the Basel Convention? Have you faced any difficulties in this communication?

The MOEW sends a copy of the notification to the NCA within 3 days.

13. How do you receive information concerning: i) wastes other than those listed in the Annexes to the Basel Convention that are considered hazardous by other countries; and ii) import bans of other countries relating to hazardous wastes? Have you faced problems in receiving this type of information?

Usually we receive different letters informing us about such information.

(b) Practical aspects, including safety measures

14. Have you received training in your country on how to handle cargos that contain hazardous wastes and other wastes?

This year in accordance Phare project between MOEW and Republic of Austria 120 customs officers are trained about requirements and implementation European legislation concern transboundary shipments of waste and task of customs. The customs officers took a part in joint inspection /internal customs houses and near borders of Serbia, Greece, Turkey, Black Sea, River Danube.

There are a draft of Code of practice which concern legislation about wastes, short description of kind of waste, pictures, physical characteristics, number of waste according the annexes, other description and etc. The Code of Practice will be for customs and Regional structures of MOEW. The draft is prepared by experts from Austria.

15. Has your country a training academy for customs officers? If yes, do the curricula of the academy include environmental modules? Is the environmental authority in your country involved in the training of the academy?

The training and qualification of the Customs officials is an important prerequisite for the effective execution of their duties. They are carried out by a National Training Centre in Sofia, regional training centres in Plovdiv and Rousse and a National Customs Dogs Training School.

More than 2000 customs officials are being trained and implemented for the purposes of training centres every year. The training and qualification activities are characterised by combination of theoretical preparation and practical orientation.

Annual training programmes are being developed and implemented for the purpose of training. These programmes are harmonised with the training conducted in the EU member States Customs administrations. The following types of training are being carried out in the training centres&

- basic /introductory/;
- follow-up training /for qualification enhancement/;
- language training;
- specialisation by correspondence in international economic relation and Customs policy;
- training in using information systems;
- training of customs dog and their handlers]
- seminar with business associations, economic operators, etc.

Training in BCA is conducted under twelve-month training programmes for customs officials. The training covers all legal acts which the customs officials are obliged to implement in their control activities /included the National wastes management Law, the Ordinance on the cases for which permit or registration is required for import, export and transit of waste, establishment of bank guarantee and on control of transboundary shipment of waste ; Geneva Agreement on the International Transportation of Dangerous Cargoes by Road (ADR); Basel Agreement on the Transborder Movement of Hazardous Waste/. Training for improvement of qualification is also being conducted in risk analysis and techniques for control of

goods, vehicles and containers; customs violations, carrying out nation-wide inspections through mobile customs teams.

16. What procedure do you have to verify whether a cargo conforms to the accompanying documentation, when the cargo is: i) exported from your country; ii) transiting through your country; or iii) imported into your country?

The customs authorities shall require presenting a copy of the notification and all the consents.

The customs authorities shall certify the movement documents according to art. 4, par. 7, cubpar. (c) of the Basel convention:

- upon import at the customs office of entry;
- upon export at the customs office of exit;
- upon transit at the customs offices of entry and exit.

Upon certification of movement document Customs authorities shall retain and preserve a copy of the said documents. When wastes are exported or transit Customs authorities send a copy of certified movement document to the competent authority.

17. Do the procedures to be applied depend on the means of transport, the type of container and packing used?

The existing control policy is based on the International Convention on Border Control of Goods and is laid down in the Business Strategy of NCA and in the Strategy for rationalisation of border operations performed by NCA for the period 2001–2006. NCA performs major control functions on the Bulgarian frontiers. Its priority task is to implement customs control on goods and vehicles. Customs clearance of goods takes place at both border and inland customs offices which facilitates the procedures at the frontiers. A considerable improvement of the border operations is being achieved by introduction of the Bulgarian Integrated Customs Information System (BICIS). Streamlining the inland control through setting up mobile customs teams and post-clearance control turns out to be yet another positive effect on the customs border control.

Considering the fact that part of the Bulgarian frontiers will become external borders of the enlarged EU, the strategic objectives of NCA are directed towards intensifying the fight against customs and currency violations and crimes, improving the interaction with the customs administrations of the neighboring countries and reducing the time for customs clearance at the borders; enhancing the co-operation with the other border control bodies; improving the customs officials' vocational qualification, upgrading the BCP infrastructure and technical facilities and enhancing the co-operation with trade operators and public.

According to Istanbul Convention in defined occasion customs authorities require customs documents and guarantee about transport road motor vehicles. In defined circumstances are required customs documents and guarantee about container, pallets and packing use.

18. What percentage of the i) imported, ii) transiting, and iii) exported, cargo is checked in your country? How do you make the selection?

The checks of cargoes base on risk analyses.

The National Customs Administration mainly uses several types of risk analysis:

Strategic risk analysis:

It is used by the National Customs Administration for early notification purposes or for notification of potential strategic hazards that could arise from the administration's point of view.

1. arranged in groups risk goods Monitoring.
2. risk profiles Set up by territorial customs offices;
3. risk profiles Set up following statutory changes in customs clearance of goods and import duties determination.

Tactical Risk Analysis:

It is prepared in accordance with the intelligence planning on local and national level and includes:

1. planning Evaluation;
2. customs intelligence Targeting;
3. Defining the right profile of the intelligence;
4. Acquiring signals for tactical intelligence.
5. Preparation of the necessary information and profiles for the customs intelligence units.

Profiled Risk Analysis:

It is used with an aim to investigate customs offences which have been already committed or which are in a process of being committed. It serves to identify the persons who have organized and committed customs offences as follows:

1. Information concerning narcotics and precursors traffic.
2. Information, which is collected and disseminated, in relation to goods smuggling and customs fraud.
3. Information, which has been acquired and processed in relation to offences committed with dual use goods and technologies

Operational Risk Analysis:

Intelligence departments have been set up in all regional customs directorates and offices. Risk indicators have been established on the basis of information concerning importers, fictitious companies, trucks, private automobiles, new companies, drivers, clients, cash payments, suspicious transit operations routes, suspicious customs agents.

BICIS module Enforcement

Risk Management package is included in Enforcement module of the BICIS 2.2. This package consists of the definition of the risk indicators and profiles (national and regional, simple and complex), links among them, definition of the geographical coverage and time period of the risk profiles, specific customs officers actions, recording of the actions results, subsequent analysis subject. Providing of feedback information for profiles effectiveness is intended in the functions of the module. The risk management module will provide some general or particular statistical reports in order to support and facilitate analytical works.

19. Do you have any safety measures for handling suspicious cargos in place?

Nothing special is provided.

20. Have you faced problems in identifying the type of wastes contained in a cargo? If yes, please specify what type.

In these situations customs authority immediately informs the competent authority.

21. Do you keep any records of i) the amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification; and ii) the amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods? Has your country created databases containing the latter information? If yes, please explain how do the databases operate?

Yes, we keep information which is required from the Secretariat of the Basel Convention to be send as an annual report.

We do not have such data base, but we intend to develop until the end of the year.

II. Procedures established to prevent, identify, monitor and manage cases of illegal traffic of hazardous wastes and other wastes

22. Has your country enacted legislation that prevents and punishes illegal traffic in hazardous wastes and other wastes? If yes, please specify.

Yes.

- Waste Management Act (Dated 18 September 2003, promulgated in State Gazette 86/2003, last amended SG 27.09.2005)

- Ordinance on the order and the procedures for the import, export and transit of waste and the cases when bank guarantee or insurance is required (adopted with CM Decree 298/28.11.2004, SG 102/19.11.2004)

- Law on Ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal, adopted 1996

23. How is illegal traffic of hazardous wastes and other wastes defined in your national legislation? What are the penalties under your national legislation?

According article 233 of Customs Act who carries or transports goods through the state border or attempts it without the knowledge and the permit of the customs bodies, inasmuch as the perpetration does not represent a crime, shall be punished for customs smuggling with a fine of 50 to 150 percent of the customs value of the goods.

When the subject of the customs smuggling are goods for which excise is due or which are prohibited for import or export goods the fine shall be from 100 to 200 percent of the customs value of the goods.

The goods, subject of customs smuggling, shall be confiscated in favor of the state regardless of whose property they are and, if the are missing or have been expropriated, their equivalent shall be adjudged, representing their customs value.

The goods, subject of customs smuggling, shall be confiscated in favor of the state in the cases when the perpetrator is unknown.

The transporting and carrying devices and vehicles which have served for transportation or carrying the goods, subject of customs smuggling, shall be confiscated in favor of the state regardless of whose property they are if their value obviously does not correspond to the value of the subject of the customs smuggling.

According Article 234 of Customs Law a person who evades or attempts to evade entirely or partially prohibitions or restrictions of import or export of goods or applying measures of the trade policy shall be punished for customs fraud with the fine stipulated by Article. 233, Paragraph 1 or 2 and to legal persons and sole entrepreneurs a proprietary sanction from 100 to 200 percent of the customs value of the goods shall be imposed.

Applied in the cases under Paragraph 1 shall be respectively the provisions of Article. 233, Paragraph 3, 4.

24. Has the national legislation regulating the illegal traffic of hazardous and other wastes been harmonised with the requirements established by the Basel Convention and relevant EU legislation, in particular, Waste Shipment Regulation 259/93?

Yes.

25. Have you identified any gaps in the national legislation regulating the illegal traffic of hazardous and other wastes?

No.

26. What procedure do you apply when you have determined that a cargo may be illegal traffic? For example, do you turn it back? Do you seize the suspect shipment and conduct an investigation? Do you contact the country of export / transit / import?

If a request from the customs authorities the movement documents is not presented the customs authorities shall suspend the shipment and shall immediately inform the competent authority.

In case of export of waste considered as illegal traffic, which is the responsibility of the exporter or the waste holder, the exporter or the waste holder shall ensure that the waste in question is taken back and submitted for disposal and recovery or if impracticable – to be disposed or recovered in other state within 30 days from the time when the MOEW was informed about the illegal traffic or within such other period of time as may be agreed by the competent authorities of the concerned states.

Within 3 days from the date on which it is found that the transboundary movement of waste is considered as illegal traffic, the applicant or the waste holder shall inform the Minister of Environment and Water and the competent authorities concerned for the measures that he will undertake for fulfilment of its obligations.

In case of import of waste considered as illegal traffic which is the responsibility of the exporter or the waste holder, the Minister of Environment and Water or official person authorized by him shall notify the competent authorities of the state of export and the states of transit for the reasons for returning the waste or for its disposal in alternative and environmentally sound manner.

In case of import of waste considered as illegal traffic which is the responsibility of the importer or the consignee, the importer or the consignee shall ensure that the waste in question is disposed and recovered in environmentally sound manner within 30 days from the time when the MOEW ascertains the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

27. Do different procedures apply depending on whether your country is: i) the export state; ii) the transit state; or iii) the import state? If so, what procedures apply in each case?

No.

28. Which governmental agency is responsible and which are the procedures to be followed for investigating suspected cases of illegal traffic of hazardous wastes and other wastes in your country? Are there other entities involved? If yes, please specify.

The Customs Agency and the Border Police are the first institution dealing with the illegal traffic of hazardous waste. Then the prosecutors and the courts are involved.

29. If several governmental agencies are involved, what are the responsibilities of each agency? How is the exchange of information and cooperation between these agencies organised? Are there bottlenecks?

The illegal traffic is at first handled from the Customs Agency. If there is suspicion that there is a crime, all persons and trucks are passed on the Border Police. Then if they decide they hand over the case to the police.

30. Are there joint inspections with: i) other agencies and ii) other countries? Has your country faced any problems when carrying out joint inspections? If yes, how can these inspections be improved?

This year were several joint inspections with MOEW, Border police and National Bureau Interpol. They took place at the border point Kalotina, Gueshevo, Kulata, Kapitan Andreevo, Rouse, Sea ports Varna and Bourgas,

Are there any other comments that you would like to make?

_____NO_____
