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TRADING WASTE IN THE MEDITERRANEAN

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ABSTRACT

Since the early 1980s trade with hazardous wastes between developed and developing countries has been considered as an environmental problem of some concern. In 1989 the Basel Convention was negotiated as a global approach for constricting the waste trade in this respect. Since then several regional agreements, compatible to the Basel Convention has been negotiated. The Izmir Protocol is such a regional agreement concerning waste trade in the Mediterranean. The problems that this regional agreement meets are basically the same that the Basel Convention is confronted with globally. In this paper four cases of waste trading are analysed. These cases seem to implicate at least three possible developments for the future. First, there is a tendency among developed countries to adapt to "clever and creative accounting" and thus transform possible costs for various types of expensive waste management or disposal into either mere profit or at least minimise costs for getting rid of the wastes. Secondly, there is a tendency among the contemporary states to ignore signing and ratifying agreements and treaties that do not lead to immediate benefits; i.e. access to markets. Therefore these agreements rarely consist of the most important actors on the international scene, and sometimes even have problems of entering into force because of lack of interest. Finally, there is a tendency among those less well-equipped concerning material and financial resources, not to complain if imports that are labelled as aid does not fulfil their requirements. Their reasoning seems to be that among the 'goods' there has to be 'bads'. Interest to sign and ratify the Izmir Protocol seems to be low. Still, after more than five years since its negotiation eleven of twenty-one contracting parties to the Barcelona Convention has signed it, while only three have ratified it; namely Malta, Morocco and Turkey.

1. TRADING WASTE IN THE MEDITERRANEAN

International trade in HWs was identified as an environmental problem of some significance in the beginning of the 1970s. At that time trade with HWs was only a potential problem, rather than an acute one. The reason for this was that HW disposal and management in those nations had not yet resulted in any more restrictive legislation and as a consequence of this was still rather cheap. As it was cheap there were no economic incentives to export HWs. As the 1970s passed this gradually changed. In the United States (US) the RCRA (Resource Conservation and Recovery Act) was adopted in 1976. This piece of environmental legislation proved less effective though and it was not until it was amended in 1984 by the so called Superfund that this state of things began to change. The Superfund was directed towards cleaning up old waste dump sites and as it became operational real costs for waste management and disposal became clear for the involved actors. Suddenly it was not possible to use materials as 'incinerator fly ash' as 'bulk construction material' in buildings and road constructions. In fact it was not even legal to dump some of the waste in landfills anymore. As restrictions hardened the disposal service became more and more technically advanced and more expensive. Suddenly export of HWs to other countries seemed to be a reasonable and viable option (Moyers, 1991).

This process slowly spread and the style and intentions exposed in the US legislation was more or less imitated in many other industrialised countries. However, as this type of legislation became more restricted concerning the use of HWs as secondary raw materials in construction and buildings and as the demands for environmentally sound final disposal of HWs increased, the options of where to send the wastes industrialised countries decreased. During the early 1980s exports of HWs to less developed countries, with slacker or no legislation in the environmental area became an economically 'sound' option.

Implementation of the Superfund policies resulted in an identification of no less than 32,000 potentially dangerous disposal sites in the US. Of these 1,200 were considered as in need of acute action. In the Netherlands 4,000 potentially dangerous sites were identified. Approximately 3,200 were found in Denmark and a similar number was found in the Federal Republic of Germany (FRG). (Tolba, 1999, p. 99)

As the affluent societies of the North reconsider their HW management procedures and identify sites that have to be cleaned up, it becomes obvious that opening up of new ones will become more and more difficult and controversial in the future. The waste management business found itself in an environment that demanded more and more of the sites that they were operating. As the number of possible alternatives dries up, the only remaining options becomes either to export or, as radical environmentalists demands, to decrease generated amounts of waste (Jacobson, 1993; Stairs, 2000).

In order to understand this process we must understand how waste is spread and gathered together by the waste management industry. All types of waste management as well as other forms of modern industrial activity depend on the use of economies of scale. In order to increase efficiency in management or disposal of certain kinds of HW, it has to be gathered in sufficient amounts. The more hazardous a waste is, the more rare its occurrence is, generally speaking. That means that generally HWs have longer time periods of collection than other types of waste. Therefore those engaged in HW management and disposal have to operate on a grander scale[1] than other types of waste management and disposal. When sufficient amounts of wastes have been collected it represents a substantial value, which HW traders have been collecting to take possession of the waste. Now the time comes to export the HW. The profit for the waste trader is the difference between the amount of payment they have collected for the HWs, minus transport and disposal[2] costs (OECD, 1993).

As a consequence of more restricted legislation the price for HW management and disposal has gone up. In the late 1980s the cost for disposing one ton of HW in the industrialised North could be as high as US$ 2,500 while it could be disposed of for as little as US$ 2.50 in Africa. Suddenly great opportunities were opened up for less scrupulous waste traders. As the 1980s went on it became obvious, caused by various waste trade scandals, that something had to be done to stop this messy business,otherwise the poorer parts of the globe were risking being used as the dump-site for therich (Kebe, 1990, p. 251; Asante-Duah, Saccomanno & Shortred, 1991; Tolba, 1998, p. 123).

The result of these efforts was the United Nations Environment Programme's (UNEP's) 1989 *Basel Convention on the Control and Monitoring of Transboundary Movements of Hazardous Wastes and Their Disposal*. The original Basel Convention was oriented towards restricting and regulating international waste trade. Some developing countries and the environmental non-governmental organisations (ENGOs) involved in the process were vigorously opposed this solution and demanded a total ban on trade with HWs between developed and developing countries (van Ermen, 1990; Furtado & Stairs, 1999; Puckett, 1999; Stairs, 2000).

At the second conference of the parties (COP-2) to the Basel Convention, in Geneva in 1994, it was decided that HW trade between OECD and non-OECD states should be banned. This decision was refuted overtly as well as covertly by the great waste exporting countries. An amendment of the Basel Convention was demanded as the change from a regulative convention into an agreement based on a ban was considered as so far away from what those countries had agreed upon in 1989 that it was considered as being an entirely different type of convention. The adoption of such an amendment was accomplished at the COP-3 in Geneva in 1995. The amendment has, however, not yet entered into force. No less than 62 states of those present and parties to the Basel Convention in Geneva in 1995 have to ratify the amendment before it can become operative (Brikell, 2000; UNEP, 2001a).

In its Article 11, the Basel Convention stipulates that it should be possible to negotiate bilateral, multilateral and regional agreements concerning HW trade. These agreements are thus considered to be structured so that they are compatible with the Basel Convention (ILM, 1989, p. 668). In 1991 the *Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movements and Management of Hazardous Wastes* was signed by ten African states. To a large extent this regional agreement was compatible with the Basel Convention. It differed though in two significant respects. First, there was an inclusion of radioactive wastes in the Bamako Convention, and second there was a total ban on imports of hazardous and radioactive waste into Africa. Within the Basel Convention radioactive wastes were considered as the jurisdiction of the International Atomic Energy Agency (IAEA) and outside the interest of the concerns with HW trade. Later the IAEA negotiated their own convention regulating trade with radioactive wastes. The Bamako Convention reached its necessary number of ratifying parties in 1998 and thus went into force. However it still has not managed to have its first COP (ILM, 1991; Kummer, 1995; Brikell, 2000).

Similarly the 1996 Izmir Protocol of the 1976 *Barcelona Convention for the Protection of the Mediterranean Sea against Pollution* is a regional agreement compatible with the Basel Convention. The present status of the Izmir Protocol is that it still lacks three of the six stipulated ratifications it needs to

enter into force (UNEP, 2001c, p. 156).

Thus there are three agreements that have the potential to restrict trade with HWs in the Mediterranean. The global and overall order is the Basel Convention, while the regional control is put under the jurisdiction of the Bamako Convention and the Izmir Protocol.

My purpose here is to scrutinise especially the role or possible role of the Izmir Protocol. Seen from a strictly developmental perspective the Mediterranean coastal area is surrounded by both developed and developing states or, if we were to adopt the language used in text of the Basel Convention, OECD and non-OECD states[3].

In order to address this properly we do not need a survey of the economic status of the countries surrounding the Mediterranean, but some kind of analysis of past and present cases of international HW trade in this area. Sadly enough the state of the available statistics in this area leaves a lot to be wished for and even Eurostat's (1997) survey on trade with twelve specifically valuable wastes was far from conclusive. This was regardless of administrative similarities of the considered EC-12 and the fact that only twelve specifically chosen wastes were investigated in this analysis. Therefore we will have to put up with a brief presentation of cases that is far from conclusive, but may nevertheless be able to indicate some recent changes and developments in this issue area.

2. EARLY WASTE TRADE CASES

In the late 1980s there were some cases of exports of HWs in the Mediterranean area between rich industrialised and less developed countries. We shall look into two such cases. The first concerns imports of HWs into Turkey and the other a similar case of imports into Lebanon (al-Ali, 1993a; al-Ali, 1993b).

Turkey has been an OECD member state since its start and this makes it technically dependant on the OECD system for trade with HWs and not a concern for the Basel Convention. The Turkish case occurred before the negotiation of the Basel Convention in 1987, and the only restrictions were those stated by the OECD waste trade system, which demanded different forms of prior informed consent (PIC) before import of HWs could be undertaken, depending on the status of the wastes. In 1987 the PIC restrictions were rather slack and none demanding, especially concerning wastes that were considered among the most dangerous types. The time for an importing country to respond to the PIC was not more than fifteen days for those less HWs.(OECD, 1993; al-Ali, 1993a)

Late in 1987, the Landesamt Goppingen authorised Weber of Salach, a company in the FRG, to export 100,000 tonnes of fuel substitute to Turkey. This export of fuel substitute contained various kinds of hazardous substances. The chairman of the Isparta Chamber of Commerce issued the import permission. He and the Chamber did not have the authority to do this. This caused the Turkish authorities to make a complaint to their German counterparts, in order to persuade them to take repossession of the wastes. The Turkish Environment Minister, Atasoy, made a visit to the FRG in May 1988, and met the German Environment Minister Klaus Toepfer, in Stuttgart and tried to negotiate repossession of the wastes (al-Ali, 1993a, p. 1).

In this context the Turkish authorities claimed that they lacked domestic legislation that regulated this area and were therefore unable to act according to the provisions of the OECD-system for HW trade. The Turkish authorities were in the process of developing and preparing legal provisions and the technical facilities in order to be able to manage the control and monitoring needed to handle this type of imports. Later in March 3, 1988 the Turkish parliament decided to ban imports of HWs. In practice this law meant that all imports of HW except waste paper was to be considered illegal. According to Turkish officials it was not possible to control every meter of the Turkish coastal line. Therefore the Turkish authorities considered that it was the obligation of the exporting countries to control what was exported. [4](al-Ali, 1993a, p. 1-2)

The fuel substitute of this particular export consisted in approximately 50 % saw dust, 40 % paint and enamel sludge and 10 % waste oil. It also contained smaller amounts of heavy metals and chlorinated hydrocarbons. Eventually a smaller part of this fuel substitute was burned in a cement factory in Isparta. The German exporter, Weber, claimed that they supervised the burning of 40 of the first 1,620 tonnes that had been delivered. (al-Ali, 1993a, p. 2)

Finally, the media coverage and public outcry resulted in that the HWs were re-loaded on the *Arktis*

Trader on July 30, 1988 and left destined for Rotterdam. The cargo consisted at this stage of 1,580 tonnes of the fuel substitute. The ship was denied un-loading its cargo in the Netherlands, the FRG, Belgium and the UK. It was then transferred to two smaller vessels, the *Denzo* and the *Barend*, and shipped back to Stuttgart. These particular wastes[5] ended up being incinerated in Biebesheim, Hessen (al-Ali, 1993a, p. 3).

The Lebanese case was to some extent a similar story, but as the Lebanese authorities were made aware of the existence of the imported HWs in Lebanon there was practically no response at all. Between September 1987 and June 1988 an Italian company, Jellywax, imported over 2,400 tonnes of chemical wastes through ports which at that time lay out of control for the Lebanese government. On June 5, 1988 some barrels of Italian origin, containing chemical waste were discovered on the shoreline of Kerswan, north of Beirut. It soon became obvious that there were more dumped at sea and Lebanese fishermen started to discover them in increasing amounts. In East Beirut and Ghazir an additional amount of 2,410 tonnes of chemical wastes was discovered. The cargo freighter *Radhorst* had delivered these HWs in mid-May 1988. The *Radhorst* was owned by the Czechoslovakia Ocean Shipping Company and it succeeded in delivering these HWs in Lebanon only after failing to un-load and get rid of them in Venezuela in late 1987. According to a Lebanese TV-station, a Lebanese businessman had been demanding US$ 500,000 for accepting the HWs from Jellywax (al-Ali, 1993b, p. 1-2).

Later in June 1988, the Italian ambassador Antonio Mancini met with the Lebanese acting Prime Minister Salim Hoss in order to try and negotiate a solution to this business. The Italian offer was to fund the clean up with US$ 3 million, but the Lebanese demanded that the Italians should guarantee to pay the whole cost for the clean-up. This affair went so far that the Lebanese made explicit threats to recall the Lebanese ambassador from Rome and threatened to freeze diplomatic relations with Italy. On June 23, an anonymous caller, claiming to represent the 'Organization of Preserving the Lebanese Right' threatened to attack every Italian interest in Lebanon unless the Italians removed the HWs from Lebanese soil. This threat spurred the Italian authorities into action. Two cargo-vessels, the *Vorais Sporiades*[6] and the *Yvonne/A* reloaded the wastes in July and August 1988. On December 15, the ships got their sailing orders from the Italian authorities and left, destined for La Spezia (al-Ali, 1993b, p. 2).

Basically both the Turkish and the Lebanese cases was an effect of a poorly developed control and monitoring systems for trading with HWs. Some HW traders took advantage of these asymmetries in industrial and economic development. In practice nothing illegal happened, as no laws were broken, since no such laws were put into operation at the time of the exports.

In order to structure this investigation we shall look more closely to some similarities and differences. First, there were some ambiguities of the nature of the contents of the exports; fuel substitute in one case and raw materials and recyclables in the other. Even though the receivers might have suspected the real nature on the contents, it was probably oriented much towards decreasing the attention of outside observers. Secondly, they were similar in the sense that the contents of the shipments had no practical use in the importing countries. Finally, both exporting cases were initiated to avoid increasing costs for HW disposal.

However, there were differences as well. First, the Turkish HW imports were destined to be incinerated in Isparta. Thus, they were destined towards a kind of operation that nowadays is not considered as proper or environmentally sound, but was accepted in the late 1980s in most industrial countries, even though it was not the preferred solution. The Lebanese HW imports were never supposed to become object for any proper type of management or disposal process. In this sense the Lebanese case was a case of sheer dumping. Dumping for profit. Secondly, the Turkish case incorporated two operating actors, Weber and the Isparta Chamber of Commerce, and two administrative actors, represented by the Turkish Environment Minister and the German Environment Minister. Thus it was fairly easy to establish contacts between the adversaries. In Lebanon there were several different HW traders[7] and the Lebanese government did not control the whole area over which the HWs were spread. Third, Weber took advantage of insufficiently[8] developed Turkish laws and regulations, while the Italian HW traders took advantage of a country in disarray and chaos. Finally, the Turkish case was solved through negotiations between the Environmental Ministers of Turkey and the FRG, while the Italian authorities only took repossession after being threatened, both by terrorists and diplomatic sanctions. Furthermore, involved in the Lebanese case was a notorious waste trading company of Italian origin, Jellywax[9]. There can be no doubt that Jellywax was in for this deal because of the great profits expected (al-Ali, 1993b).[10]

Cases like these triggered development that led to the development of the Basel Convention and its 1995 ban amendment. Rather early in this development even those that were reluctant towards banning trade with HWs with developing countries agreed that trading HWs destined for final disposal was not to

be allowed to continue. The reason for this change of mind among industry and the most waste generating countries was that there had developed an understanding that the most valuable part of the HW trade was the part dealing with HWs destined for recycling, recovery and re-use operations. Therefore it was considered vital to preserve that part and sacrifice HW exports destined for final disposal. (Bullock, 1999; Bartley, 1998; al-Ali, 1993a; al-Ali, 1993b)

3. LATER WASTE TRADE CASES

In 1992, great quantities of leaking barrels were discovered in Bajze, in the northern parts of Albania. These HWs were chemicals that had been exported by a German company named Schmidt-Cretan labelled 'humanitarian aid'. These chemicals were forbidden to use within the EC and when they were discovered in Albania they were also outdated. However, there was nothing illegal with the transport and import when it was undertaken. Therefore there was no chance to persecute Schmidt-Cretan in a court of law. In fact, Schmidt-Cretan had undertaken the proper PIC-procedure applied for at the German designated authority and it had been approved by the Albanian Ministry of Agriculture. In this respect all the necessary formalities were handled properly (Cleary, 1996, p. 2).

Between 1991 and 1992 Schmidt-Cretan had exported 480 tonnes of hazardous chemicals to Albania. Divided into five shipments a compote of various chemicals was exported. Among the most dangerous was toxaphene and phenyl mercury acetate. These chemicals had been banned to use within the EC since 1983. According to a chemical expert one litre of toxaphene has the capacity of contaminating approximately two million cubic meters of water and exterminates anything living in it. The estimated costs for disposing these HWs in the FRG was at the time estimated at between US$ 4,800 and 6,000 per ton. (Cleary, 1996, p. 2)

As the hazardous chemicals arrived in Albania, the Albanian authorities realised that there were serious problems with this shipment of “humanitarian aid”. These now outdated pesticides or rather residues of pesticides were poorly packaged, and regarded as useless for any domestic Albanian use and also of disputable quality. The Albanian government made a request to the FRG government to accept re-export of the shipments. This was considered impossible because Albania had given its formal consent to the shipments in the first place. At the time this export was undertaken the PIC-procedure only admitted a fifteen-day respite for denying import compared to between thirty and sixty days at present. The Albanian authorities claimed that they had no previous knowledge of this type of hazardous chemicals and also that they were clearly misled by the impression they had initially been given of the contents of shipments. After all, it was labelled 'humanitarian aid' destined for the agricultural sector. Therefore the short amount of time between notification and delivery was considered the crucial factor. This time constraint had made it impossible for the Albanian authorities to determine the severity of the situation[11] and thereafter make the decision to either refuse importation or get it re-exported. (Cleary, 1996, p. 2).

It soon became clear to the Albanians that re-export to the FRG was no real option. In the meanwhile the outdated pesticides were stored in various locations throughout the country. As Greenpeace made its discovery of HWs, they decided that a new tactic was needed; an entirely new approach. Greenpeace considered that pure media exposure was not enough in this case as nothing illegal had occurred. Instead Greenpeace organised the reloading of the HWs on the cargo freighter *Louise Green* and shipped them back to Hamburg. Greenpeace was taken to court in the FRG, but that rather increased the value of the media exposure. Later Greenpeace was found not guilty and the judge declared that in fact it had done the FRG a great favour, by ending this disgraceful business that damaged German reputation abroad (Cleary, 1996; Johansson, 1993; Bernstorff, 1999).

Our next case occurred in the war ravaging Bosnia in 1996-97. As the fighting began and continued there was an international call for medical aid in the form of medical supplies, in order to rebuild medical care and services. In shipments of supplies from the US, France and Sweden there was found useless outdated bandages from the 1940s and other types of outdated medicines. Substantial parts of these shipments of aid were classified by the Basel Convention as HWs. Medical personnel operating in the field discovered that the quality of the medical supplies that were sent to them left a lot to be wished for. Packages containing bandages vaporised into thin air when the packages were broken. Medicines were found to be greatly outdated at the moment of use. The sources of the HWs seemed to be twofold. First, it came out of storage of medical supplies for use in times of war and crisis. Logically, the aid providers took the oldest supplies and sent them to Bosnia. Sometimes these supplies had been stored so long that they were of no use for anyone anymore. Secondly, medicines for which the expiring date had passed and therefore turned, in principle, from useful medicines into medical waste. Both sources dealt with them the

same way though, trying to avoid them from being treated as a cost. An operation of cleaver accounting avoided that and made these wastes turn up with the wounded and sick in Bosnia. (ILM, 1989, p. 678; Swain, 1996; Mèdicines Sans Frontiéres, 1998).

Also in both these cases there were similarities and differences. First, both shipments were labelled as different sorts of aid, and thus avoided the 'normal' rules restricting such exports. Secondly, the contents of these exports were useless for those to whom they were addressed. Thirdly, the needs among the receivers were exploited and it tricked them into accepting the HWs without asking any questions. Finally, both these exports were attempts to avoid future costs for disposal of HWs. They were re-labelled as an act of cleaver accounting.

The differences were a bit subtler than in the earlier cases. First, the exports to Albania concerned one single company, Schmidt-Cretan, while the exports to Bosnia concerned the aid agencies of at least three democratic and developed states. Secondly, the exports to Albania were more dangerous on a more general level, threatening at least local water supplies, than those destined for Bosnia, which would only cause inconvenience for those who expected them to be useful medical supplies, for the needing patients. Finally, the Albanian HWs were re-exported back to source of its origin, while the Bosnian HWs, after an initial media attention, was given the 'silent treatment'.

Comparing the early with the later cases we experience that the change seems to develop from a situation where the exporters get rid of the HWs in order to decrease costs for HW disposal, to a situation where they want to avoid future increased costs by changing the labels of the HWs. Apparently this change is simultaneous with the change within the Basel Convention from accepting trade with wastes destined for final disposal into banning this fraction of trade. The arguments of the ENGOs was always that the labels of the HWs could have been altered and that the trade would go on as before, but look more respectable on the surface. Three reasons can be argued to lie behind these choices of action that differentiate them from the earlier ones. First, by changing labels exporters were trying to avoid the regulative framework of the Basel Convention, and to connect to a less restrictive framework. Secondly, they were also trying to avoid media attention and resulting public exposure. Finally, they were trying to avoid future costs, disguising it as an act of charity.[12]

4. CONCLUDING REMARKS

What we see in these two latter cases is something qualitatively new in the HW trading business compared to the earlier cases. Here it is not the concern scrupulous HW trading companies seeking quick profits, but cleaver and creative accounting and label-transforming operations undertaken by private companies and government agencies. By changing the label on a problematic item, these actors are getting rid of unwanted products or wastes. In this process they avoid an undesired future cost. Instead it seems that they are performing something positive by helping less fortunate people in distress. What they actually do is disguising exports of HWs into acts of charity. Suddenly it seems important to act before something turns into a HW.

In order to seek out the origins of these cynical practices we have to look back at institutional and ideological change in the industrialised North during the last two decades. The incentives behind these acts can be traced back to the consequences of the neo-liberal policies promoted foremost by the Thatcher government in the UK and the Reagan administration in the US. The era of big government had come to an end was the general message at the time, and the mere size of government had to shrink. This shrinkage would be accomplished by taking away certain tasks from the government. First and foremost was the idea that government should not be engaged in production where it in principle was competing with sectors of private business. Secondly, a kind of rethinking of the role of government was needed. Certain tasks that had traditionally been considered as vital for the government to control and monitor was perhaps something for re-marketization. As this type of privatisation has become a word of fashion in government renewal during the 1980s and 1990s several actors were searching for ways to transform threatening future costs into either zero in the accountant books or to slight profits. Cleaver accounting was promoted and frequently used to bring down costs and to show that government still had ability to act and to act forcefully.

As this kind of new economist ideology spread throughout Europe and North-America sectors of government started to use this way of thinking and addressing problems on a more general basis. Sometimes there even was a tendency to view the tasks of government as similar to those of a big monopolistic company. In this atmosphere there can be no surprise that the cadre of cleaver and creative

accountants grew in numbers. These government officials had little understanding of traditional welfare economics, but rather concentrated on slimming down organizations and taking away costs into new accounts and thus presenting the politicians with a nicer picture of government business. The traditional government official was exchanged with the government executive manager.

This new ideology had some severe implications in areas of government business confronted with different types of HWs. One such sector was the stockpiles stored for future crises and wars. As the expiring dates of these stocks closed in something had to be done in order to avoid threatening future costs. Relabelling them as humanitarian or medical aid seemed to do the trick. Basically it was about changing the label of items that were risking to become outdated before it was too late. By engaging in such operations the company or agency was able avoid costs and pass these costs over to other actors, i.e. the receivers of the 'humanitarian' and 'medical aid'.

The Albanian and Bosnian cases were cleverly and creatively designed schemes, as the victims were not very likely to complain. Albania lacked the expertise needed to identify the pesticides as useless and even dangerous. Bosnia probably did not want to upset the donors, which were also sending some, hopefully, useful stuff as well. As usual an aid-receiver is not in the position to complain about the quality of the donations.

Furthermore, in future similar situations, as the one in Bosnia, the character of catastrophe of the situation makes it even less likely that this kind of cynical behaviour will be exposed. Frankly speaking those in need will always be at the mercy of the donors and will be reluctant to expose the wrongdoers. In Bosnia it was individual journalists (Swain 1996) and non-profit organisations such as Mèdicines Sans Frontiéres (1998) that exposed these kinds of actions, caused by their rage over the cynicism of the donors and not being able to help the needy because of lack of useful medicines and other related supplies.

This seemingly cynical behaviour can be traced back to an ideological shift in the affluent North where the primary target is to cut costs whatever the consequences. In this sense the northern response has become defensive rather than offensive; instead of earning an easy buck, avoidance of the risk of having to bear foreseeable costs now prevail.

A reasonable assumption from this brief analysis seems to be that the North actually complies with those parts of the Basel Convention that it has ratified; that is the PIC-system and a regulated HW trade where HWs destined for final disposal are not to be exported to non-OECD countries. Considering the parts that have not been ratified like the ban amendment and the Izmir Protocol it is quite another thing. As these agreements have not been ratified[13] by some countries they are formally not forced to comply with them and are in principle free to act as they see fit. Concerning the Albanian case this does not formally imply any violation of the Basel Convention regulation, simply because at the time when Schmidt-Cretan exported the pesticides to Albania it was done within the limits of the then legal system for HW exports. What seems to be disputable from a moral and ethical standpoint is that the company re-labelled those pesticides as 'humanitarian aid'. This way of acting implies that Schmidt-Cretan was aware of what they were doing was not considered as un-controversial.

The Bosnian case is quite another affair. To re-label outdated bandages from the 1940s and outdated medicines as medical aid is a break of the Basel Convention, simply because medical material of this character is clearly and undoubtedly identified in an annex to the Convention as HWs and therefore illegal to export without applying for PIC to the Bosnian authorities. This was obviously not done either by the Americans, the French or the Swedes. Instead they re-labelled it. Mèdicines Sans Frontiéres issued a report in 1998, but little came out of it except some immediate media coverage.

The question is if this is some kind of the top of an iceberg or simply isolated events created by over-ambitious officials? If one considers how HW trade has been developing over the rest of the world during the last decade, it seems that what were rather outrageous exploitative schemes in the 1980s of exporting HWs destined for final disposal to developing countries, has changed into exports of HWs destined for recycling, recovery and reuse operations mostly directed towards East and Southeast Asia. The trouble with these exports is basically twofold. First, there are suspicions that they contain different materials than what the exporter claim that they contain. This is a direct effect that the 'cradle-to-grave' concept for HWs simply does not work internationally. At any warehouse in Western Europe or North America HWs are checked to see whether the contents of the cargo are consistent with what the documentation says they should be. For reasons of lack of technical, bureaucratic and administrative skills this is not possible in most developing countries. Therefore when it is discovered that the contents of a cargo do not correspond

to what the documentation suggests that it should contain, it is almost always too late to do something about it.[14] If it is too late, it will not be possible to accomplish a re-exportation back to the source of origin. Secondly, the PIC procedure is simply not only undertaken, but also ignored by the exporting company. In 1995 two cases of exports of HWs without applying for PIC were discovered in Sweden. In both cases it was leaded cables destined for the People's Republic of China (PRC). The violation of the Basel Convention was twofold. First, the companies Stena Trading in Gothenburg and the Metal Group in Helsingborg did not apply for a PIC at the Swedish Environmental protection Agency (SWEPA).[15] Secondly, the recycling method used in the importing country should not be less environmentally sound than in the exporting country. Statements by the executive manager of the Metal Group made it obvious that this was not the case and that he was fully aware of this circumstance. The alternative to selling the HWs and exporting them to the PRC was to send them to a facility in Switzerland, which would manage them and transform them into granulate, a kind of insulation material. This process would take about three months. Of course this means a substantial financial risk for the individual HW trader and it is therefore considered more financially sound to sell off the HWs instead[16] (Bensusan, 1998).

These cases did not lead to convicting sentences in the Swedish court system. The courts in Gothenburg and Malmoe ruled that something that had a price could not be considered as waste, thus disregarding that Sweden at the time was a ratifying party to the Basel Convention. However, a domestic court has to consider what Swedish law says and not consider if the Swedish legislature has failed to implement what Sweden as an international negotiator has signed and ratified.

There are some lessons to be drawn from these cases, though. It seems obvious that one of the structuring principles of the Basel Convention, namely the principle that the nation states shall punish violators operating out of their own jurisdictions, simply does not work. Nobody seems interested in bringing any indictments to a convicting sentence among their own nationals. In fact, there is only one case where notorious HW traders havebeen brought to court and convicted to long prison terms. In July 1986 Jack and Charlie Colbert werebrought to court and convicted to thirteen years of imprisonment for illegally exporting HWs to Zimbabwe (Moyers, 1991, p. 40).

However, the Colbert brothers' case seems to be the exception rather than the rule in this messy business. What are we then to believe of the situation in the Mediterranean in the near future?

One Achilles heel of the Basel Convention and related agreements, such as the Bamako Convention and the Izmir Protocol, is that they rely for their enforcement concerning monitoring and compliance, to actions of the national authorities of the states from where the HW traders operate. It seems that the nation states of the OECD on a general basis are reluctant to prosecute their own nationals for offences made in another country. Technically speaking the jurisdiction of one state's legal authorities does not reach beyond its own territory. This rule is slowly eroding at the present, because of various types of international law and other types above national level. The law system of the EU is in this context rather unique and holds in itself a promise to make a difference in the future. Concerning other types of international law, it is generally considered as 'soft law' because there is no 'real' authority there to enforce it.

As a consequence of this there is only one thing that constrains states and companies that engage in waste trading: They do not want to damage their own international and public reputation. Especially for industry this is of vital concern, if the industry in question is involved in any sort of sales on ordinary consumer markets. If so, they are vulnerable to bad publicity as they risk various sorts of consumer boycotts. However, this is not the case with waste traders and various types of government agencies.

What about the future trends in the Mediterranean region then? There are some concerns here that the consequences of European integration and the economic and industrial development expected to occur after the downfall of communism, can create 'industrial havens' comparable to Cubataõ, in Brazil, and the Maquiladora zones, in Mexico, where no health care or environmental regulations are respected. Such a development might divert or increase waste streams containing HWs destined for recovery, recycling or re-use operations from its Eastern European or East and Southeast Asian destinations, towards the less developed countries in the Mediterranean region.

To avoid such a development there are some precautions that could be easily undertaken. First, to honour the rule of applying for PIC each time a waste export is undertaken. Secondly, not to send wastes towards destinations where they are treated in a less environmentally sound manner. Finally, a fresh start would be to raise the needed three extra ratifications in order to make Izmir Protocol come into force.

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[1] This is in consideration of the extent of the area in which the wastes have to be collected. In principle this means that more usual waste, such as household waste, is collected, disposed of and managed more locally than more dangerous and rare forms of waste.
[2] The disposal costs in this example is what the country that imports the waste charge the waste traders for allowing the import. This is a consequence of the assumption that no 'real' waste management or disposal operation will be undertaken. It is just a

matter of dumping HWs wherever it may seem convenient. The example refers to the situation, which prevailed in the 1980s, and mainly concerned HWs destined for final disposal.

[3] Or ideally, considering the present definition with the Basel Convention; Annex VII and non-Annex VII states. The only difference is that Liechtenstein is included among the OECD member states in the Annex VII. Slovenia, Israel and Monaco applied for inclusion though at the fourth conference of the parties in 1998 (UNEP, 1998; Labang, 1998, p. 3). OECD-states located around the Mediterranean are Spain, France, Italy, Greece and Turkey.

[4] An argument that to some extent is consistent with a proper 'cradle-to-grave' policy for HWs, similar to the use the concept has in the industrialised countries of the North.

[5] Weber solved the problem with the rest of the HWs by shipping them to the SARP Industries' incinerator at Limay, north-west of Paris, France. By exporting the fuel substitute to SARP Industries Weber saved approximately one million Deutschmarks (al-Ali, 1993a, p. 3).

[6] Formerly known as the *Jumbo Trust*. HW trading ships are known on a frequent basis changing their names in order to avoid media attention.

[7] Though it may be assumed that Jellywax was operating them from behind the scene.

[8] Insufficiently developed in order to implement the OECD system for controlling and monitoring the international HW trade.

[9] The most famous HW trade case where Jellywax was involved was the so called 'Karen B affair' where Jellywax persuaded a Nigerian businessman to take possession of a large amount of barrels containing HWs in an urban area in Koko, Nigeria. This triggered Nigerian radicalism in the negotiation of the Bamako Convention some years later (Poropat, Douglas & Ibrahim, 1997).

[10] See also Appendix I for a more stylised comparison of the cases.

[11] Risk assessment in general is considered to need a great deal of sophistication concerning bureaucratic infrastructure and an administrative unit that is accustomed to work with both the required techniques and the involved substances. In other words, there is a great need for organisational learning.

[12] See also Appendix I.

[13] The Basel Convention ban amendment of the third meeting of the conference of the parties has been ratified by the 24 parties. Furthermore, the ban amendment has been ratified by the EU, which in principle makes the member states of the EU potential or rather future ratifiers to the ban amendment. According to the fourth meeting of the parties held in Kuching Malaysia in 1998 the parties to the Basel Convention are expected to respect the ban amendment even though it has not yet come into force (UNEP, 1998; UNEP, 2000; see also Appendix II).

[14] In other words, the wastes are diluted with dangerous substances that the receiver neither wants nor is aware of. Furthermore, such wastes are more dangerous for the environment and human health than initially might seem. There are several cases of international HW trade of this type still occurring around the world (Agarwal, 1999; Stairs, 2000; Tobler, 1999).

[15] Naturvårdsverket in Swedish.

[16] To own HWs for any longer period of time and manage them is considered taking a great financial risk. There are at least three reasons for this. First, prices on HWs tend to fluctuate over time. Therefore it is considered good business to buy and sell as fast as possible. Secondly, new regulations might affect the possibilities of getting rid of the HWs. Finally, the market for the recycled products might be sensitive.

ANNEX I: COMPARISON OF WASTE TRADE CASES 1987-1996

	Early cases		Late cases	
	Turkish 1987-1988	Lebanese 1988-1989	Albanian 1991-1992	Bosnian 1996-1997
1st similarity	Fake labelling; fuel substitute	Fake labelling; raw materials, recyclables	Fake labelling; humanitarian aid	Fake labelling; medical aid
2nd similarity	Uselessness in the importing country	Uselessness in the importing country	Uselessness in the importing country	Uselessness in the importing country
3rd similarity	Exporting country avoiding rising disposal cost	Exporting country avoiding rising disposal cost	Exploitation of importing countries needs	Exploitation of the importing countries needs
4th similarity	Waste disposal	Waste disposal	Dumping through aid	Dumping through aid
1st difference	Improper disposal method; incineration	Dumping right into the environment	2 actors; one sender, one receiver	Several actors; diffuse responsibilities
2nd difference	2 operative actors	Several loosely coordinated actors	Generally harmful to the environment	Inconvenient to the harmed patient
3rd difference	Traders took advantage of insufficiently developed OECD-system	Traders took advantage of disarray and chaos in Lebanon	Traders took advantage of administrative inability to handle the waste	Exporters took advantage of wartime chaos
4th difference	Solved through negotiations	Solved through threats and pressure	Solved by re-exportation back to the source	Un-solved because of the 'silent treatment'
5th difference	OECD	non-OECD	non-OECD	non-OECD
Crucial point	Avoiding a future higher cost	Maximising profits	Avoiding a future cost	Avoiding disposal costs

ANNEX II:

Table 1. Ratifiers* of the Basel Convention Ban Amendment as of March 26, 2001.

No	State/REIO**	Date	No	State/REIO	Date
1	Andorra	23.07.99	13	Panama	07.10.98
2	Austria	17.10.99	14	Paraguay	28.08.98
3	Bulgaria	15.02.00	15	Portugal	30.10.00
4	Cyprus	07.07.00	16	Slovak Republic	11.09.98
5	Czech Republic	28.02.00	17	Spain	07.08.97
6	Denmark	10.09.97	18	Sri Lanka	29.01.99
7	Ecuador	06.03.98	19	Sweden	10.09.97
8	European Union	30.11.97	20	The Gambia	09.03.01
9	Finland	05.06.96	21	Trinidad & Tobago	12.01.00
10	Luxembourg	14.08.97	22	Tunisia	26.03.99
11	Netherlands	22.01.01	23	United Kingdom	13.10.97
12	Norway	16.07.97	24	Uruguay	10.03.99

* 62 parties present at the Third Conference of the Parties in 1995 needed to ratify the Basel Ban Amendment in order to make it enter into force (ILM, 1989).
** REIO: Regional Economic Integration Organisation.
Source: UNEP, 2001a.

Table 2: Signers and Ratifiers of the Izmir Protocol, October 2, 2000.

	Signers			Ratifiers*	
No	State/REIO	Date	No	State/REIO	Date
1	Algeria	01.10.96	1	Malta	28.10.99
2	Egypt	01.10.96	2	Morocco	01.07.99
3	Greece	01.10.96	3	Tunisia	01.06.98
4	Italy	01.10.96			
5	Libya	01.10.96			
6	Malta	01.10.96			
7	Monaco	01.10.96			
8	Morocco	20.03.97			
9	Spain	01.10.96			
10	Tunisia	01.10.96			
11	Turkey	01.10.96			

* 6 ratifiers needed for the Izmir Protocol to enter into force (UNEP, 2001c, p. 156)
Source: UNEP, 2001b, p. 2.