
CHINA'S CONTROL OVER ILLEGAL SHIPMENTS: LEGISLATION AND ENFORCEMENT

ZHANG, HONGJUN

Deputy Director, Legislative Office of Environmental Protection and Resources Conservation Committee of the National People's Congress of China, Xi Huang Chen Gen Bei Jie, No.2, Beijing, 100034

SUMMARY

In view of the serious situation of illegally importing waste from other countries, the State Council of China issued the "Emergency Notice on the Firm Control Over the Diversion of Overseas Waste to the People's Republic of China" on November 7, 1995. An emergency notice is the most important legal provision in Chinese management over importation of waste products. Recently, in light of the policy over waste import — "careful in management, strict in approval, quantity control and reasonable in structure" — the State Environmental Protection Administration and other departments successively formulated and promulgated the legal provisions and criteria about the importation of waste, which have perfected the procedures of ratifying and checking waste import, and cracked down on the illegal import of "foreign waste." The importation of waste has become legally regulated and the diversion of "foreign waste" to China has been placed under effective control. Meanwhile, the collection and recycling of waste has boosted economic development and strengthened the awareness of the Chinese people to environmental protection.

1 FORMULATE LEGAL PROVISIONS AND CRITERIA ON THE WASTE IMPORT AND STRICTLY ENFORCE THEM

In order to carry out the spirit of the "Emergency Notice" by the State Council and include the importation of waste into the legal administration according to the "Law of the People's Republic of China on the Prevention and Control of Solid Waste Pollution," the State Environmental Protection Administration, together with the Ministry of Foreign Trade and Economic Cooperation, the General Administration of Customs, the State Administration for Industry and Commerce, the State Administration for the Inspection of Import and Export Commodities, formulated and issued the "Temporary Provisions of the Management of the Waste Import and Environmental Protection," the "Catalogue of the State-Confined Import Waste as the Raw Material," the "Supplementary Regulations to the Temporary Provisions of the Management of the Waste Import and Environmental Protection" and the "Notice of Augmenting the Catalogue of State-Confined Import Waste as Raw Material." The State Administration for the Inspection of Import and Export Commodities issued the "Notice of Inspecting Waste Import and the Administrative Measures of Examining Import Wastes Before Shipment." The State Environmental Protection Administration, in coordination with the Supreme People's Court, formulated and issued the "Explanations about the Relative Laws Applicable to Try Criminal Cases of Illegally Importing Waste." With the approval of the State Bureau of Technological Supervision, the State Environmental Protection Administration formulated and issued the "Control Criteria of Import Waste and Environmental Protection" (trial). Totaling 14, the criteria regulate the control index of radioactive pollution and the effect on the environment from import waste.

The formulation and promulgation of the above provisions and criteria provides a legal basis for regulating waste import and is widely welcomed by enterprises at home and abroad. Among others, the International Recycling Bureau and the Hong Kong Administration of Environmental Protection have asked for China's relative legal provisions and criteria. They said that those who wanted to transport "foreign waste" to China were just a few illegal merchants and most of the import waste was recycled resources. Nevertheless, they vow to obey the laws and do business according to the Chinese legal provisions. Since the above provisions were issued, no case of illegal import of "foreign waste" has been found.

2 PERFECT THE PROCEDURES OF RATIFYING AND CHECKING THE IMPORTATION OF WASTE

According to the above provisions of waste import management, the State Environmental Protection Administration has regulated strict approval procedures for waste import. Units that apply to import waste must fill in application forms, procure an evaluation from a certified environmental risk appraiser, and get regional, city, and provincial officials to inspect their facilities for recycling the import waste as well as pollution prevention and treatment measures. When they meet the demands, they can submit their applications to the State Environmental Protection Administration for approval. This set of procedures, from risk appraisal to three-level ratification, assure the strict control of waste import. The process of recycling waste should be under the supervision and administration of the local departments of environmental protection and pollution treatment measures should be carried out to make sure the recycling of waste produces no harm to the environment. The State Administration for the Inspection of Import and Export regulates the monitoring before the overseas shipment in addition to the legal inspection of the import waste. Customs will allow import waste to pass after checking the approval certificate issued by the State Environmental Protection Administration and the waste inspection certificate issued by the State Administration for the Inspection of Import and Export Commodities.

The departments of environmental protection, commodities inspection, customs and foreign trade perform their own duties, exercise their powers within the framework of the law, coordinate with each other and guard the State in the case of the illegal import of "foreign waste." For example, the Department of the Commodities inspection at Tianjin Port found radioactive polluting material in a shipment of import waste from the United States and immediately circulated a notice to the Department of Environmental Protection. The Department of Environmental Protection instantly made the decision to turn back the import waste and transport them outside. In the process of checking the waste import, the Department of Foreign Trade suspected that some unit had falsified the photocopy of the import waste approval certificate and immediately circulated a notice to the State Environmental Protection Administration. The Administration instantly took measures and avoided the incident of illegally importing "foreign waste."

3 STRENGTHEN THE CRACKDOWN ON THE ILLEGAL IMPORTATION OF "FOREIGN WASTE"

In early 1996, exposure by the media of several incidents in which "foreign waste" was illegally imported into China caused a great sensation at home and abroad. Authorities took action aimed at letting the world know that China is not the dumping ground for the waste of developed countries. At present, some developed countries have gradually diverted "foreign waste" planned for China to Southeast Asia, India, the People's Democratic Republic of Korea,

and so on. According to information from the Hong Kong Administration of Environmental Protection, 200 tons of "foreign waste" from the United States were seized in Hong Kong in July, 1996; 480 tons of "foreign waste" came in two batches to Hong Kong in August; 700 tons of "foreign wastes" from Europe were seized in Hong Kong in November of the same year. These shipments, which the importers had planned to divert to mainland China through Hong Kong, were seized by the Hong Kong authorities. The Hong Kong Administration of Environmental Protection is contacting the relevant countries to return the "foreign waste" to the exporting countries. After the waste iron and steel polluted by radioactivity was found in Tianjin, the American Embassy in China offered to contact the State Environmental Protection Administration, showing a willingness to cooperate in returning the waste. This shows that China's provisions about the waste import has played an important role in the effective control of the diversion of "foreign waste" to China.

4 IMPLEMENT THE ADMINISTRATIVE MEASURES OF LIMITING THE TOTAL AMOUNT OF WASTE IMPORT

These new programs and requirements also control the types and quantities of imported recycled waste. The State Planning and Development Commission and other relevant departments made an investigation of the types and quantities of past shipments of imported waste. According to the demand for the raw material necessitated by economic development, they solicited opinions of the relevant industrial departments and regulated the types and quantities of the imported waste. The catalogue issued by the General Administration of Customs of the People's Republic of China lists 13 categories and more than 100 types of the imported waste products. The import and export of these waste products are traded as commodities in the international community. In making the list of the recycled wastes, China listed only the 8 categories and 20+ types of material that China needs to import, such as waste iron and steel, paper, bronze, aluminum, cotton, timber and plastic scrap and so on. China needs to import about 10 million tons of wastes of various types every year. According to the principle of quantity control, in 1996 China ratified the total importation of 9.67 million tons of waste; this includes: 3.2 million tons of waste iron and steel, 2 million tons of waste paper, 1.8 million tons of waste bronze, one million tons of waste aluminum, 160,000 tons of plastic scrap, 210,000 tons of waste cotton and 1.3 million tons of waste wire and cable, electric machinery and hardware. Due to price fluctuation on the international market, the actual import is less than the ratified amount.

5 FUTURE PLAN FOR THE CONTROL OF ILLEGAL SHIPMENTS OF WASTE

In summary, China's experience with waste import approval has been a gradual perfecting of each provision and regulation on waste import. In the future, we will further strengthen contact and cooperation among all the relevant Departments and make good cooperative efforts in the future approval and management of waste import. This includes undertaking some of the following actions:

- Set up a database on the importation of waste and carry out the dynamic management of the import waste by means of computer.
- Check and register the enterprises that import, deal in, and process the waste. Certified enterprises can be ratified to import the waste; those that do not satisfy the demands will no longer be approved to import the waste.

- Further research the catalogue of the State-confined recycled import waste and according to domestic practical need, gradually revise, supplement and perfect the catalogue of the import waste.
- Strictly enforce the legal provisions and severely punish those who play favoritism and commit irregularities in enforcing the provisions about the waste import administration.