

HONG KONG'S EXPERIENCE IN CONTROL OF ILLEGAL SHIPMENT OF WASTE

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SUMMARY

Hong Kong's geographical location and free port status have made it a major entry point for the Asia-Pacific region. Huge volumes of cargo including waste materials pass through Hong Kong everyday. This paper outlines the nature and extent of Hong Kong's waste trade with the overseas countries.

To safeguard public health and prevent environmental damage due to illegal shipment of hazardous or non-recyclable wastes, and to fulfill the international obligations under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Hong Kong Environmental Protection Department (EPD) implemented in September 1996 a comprehensive legal framework to control waste shipments. The import and export of hazardous or non-recyclable waste without prior permission of the EPD is an offence under the legal framework.

Since the implementation of the control, the EPD has intercepted a number of illegal waste shipments from overseas countries. This paper outlines the modus operandi of these illegal shipments. It also summarizes the liaison efforts between Hong Kong and overseas countries in stopping illegal shipments. These efforts include:

- exchange of information on suspicious recyclers and impending waste shipments;
- interception and inspection of dubious waste shipments; and
- collaboration in the management of illegal waste shipments.

The close interaction between relevant parties will help to achieve effective enforcement of international and local laws on waste shipments to deter illegal waste trafficking.

1 INTRODUCTION

The Hong Kong Special Administrative Region is situated at the southern tip of the Guangdong Province of China and is ideally positioned at the centre of East Asia. Being a free port with good deep-water harbor facilities, Hong Kong is not only one of the busiest entry points for the Asia-Pacific region, but also one of the most efficient container ports in the world. The port container throughput reached 14.5 million TEUs (twenty-foot equivalent units) in 1997.

Over the last decade, the transboundary movements of waste have increased significantly, largely as a result of international trading of waste for recycling purposes. In Hong Kong, over 5 million tons of waste materials were moved into and out of the territory in 1997 (Figures 1a and b). The majority of these waste materials were recyclable non-hazardous wastes such as plastic waste, metal waste and scrap paper destined for recycling in Hong Kong or the nearby region. The substantial volume of waste import, export and re-export activities are driven mainly by the growing manufacturing and industrial activities in the southern China in the past years and their increased demand for recovered scrap materials as secondary and inexpensive raw materials.

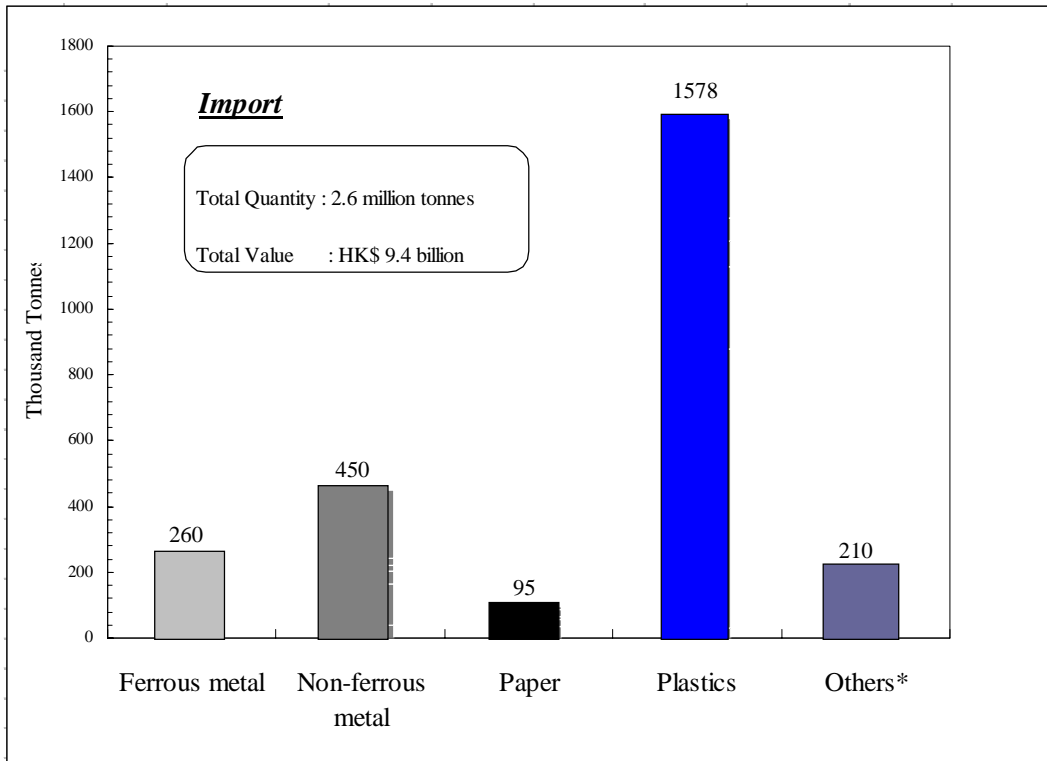


Figure 1a Waste Trade Statistics of Hong Kong in 1997 (Import)

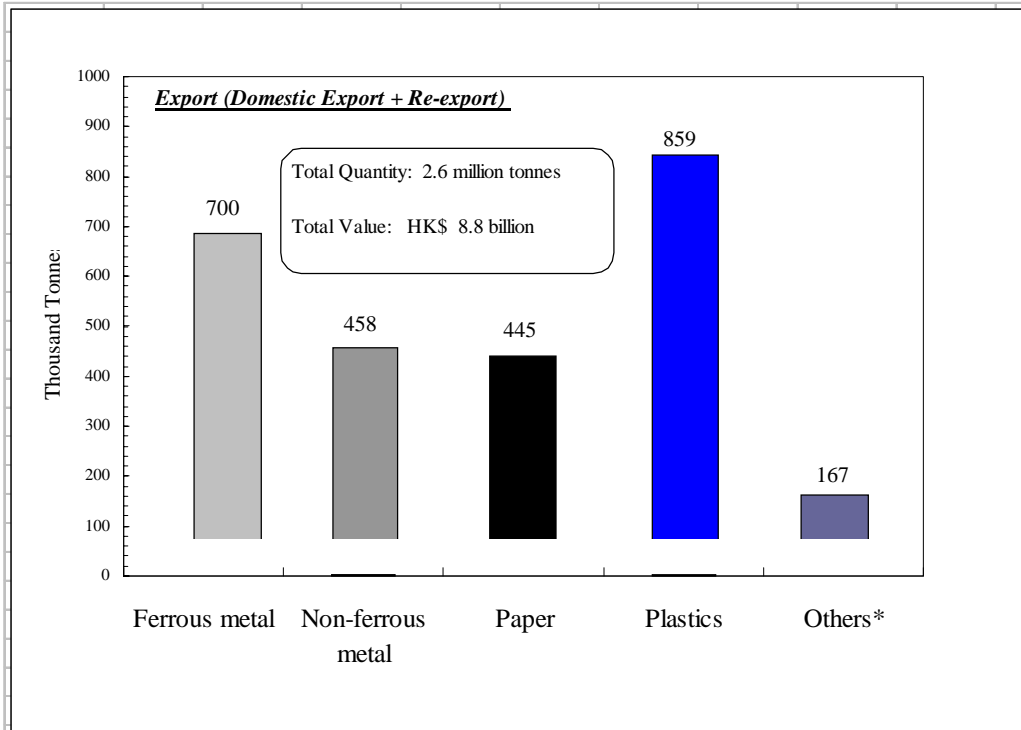


Figure 1b Waste Trade Statistics of Hong Kong in 1997 (Domestic Export + Re-Export)

Whilst it is unquestionable that an effective recovery of useful scrap materials on a global scale will contribute towards the conservation of raw materials and sustainable development, the potential environmental implications of these activities also have to be addressed.

2 IMPLICATIONS OF WASTE IMPORT AND EXPORT ACTIVITIES

In the late 1980s, wastes which were considered valuable enough to be reclaimed were treated as tradable commodities and exported to other countries as raw materials. As these activities were trade-oriented at the outset, potential environmental implications were usually neglected because the trade system did not ensure the recycling of the wastes in an environmentally sound manner.

There were highly publicized incidents involving 'trading' and subsequent dumping of non-recyclable, contaminated or hazardous waste under the guise of recycling. These sham recycling activities were to some extent attributed to (a) the escalating waste disposal costs in some developed countries due to their stringent environmental standards; and (b) the less stringent technical and regulatory infrastructure in some importing countries. These incidents have triggered international concerns over transboundary movements of waste and the associated adverse effects upon public health and the environment.

3 THE BASEL CONVENTION

The increased global concerns had led to the conclusion of the Basel Convention on the Control of Transboundary Movements of Wastes and their Disposal (the Basel Convention) in 1989. The Basel Convention aims to protect public health and the environment against the adverse effects of hazardous waste by minimizing waste generation and movements and introducing a system of advanced notification and consent for transboundary movement of waste. It requires the Convention parties to implement domestic legislation to prevent illegal waste traffic through local enforcement measures. It also promotes cooperation amongst the parties to achieve environmentally sound management of waste and prevention of illegal traffic.

The Basel Convention has been applicable to Hong Kong since late 1995. It now applies to Hong Kong as a special administrative region of China which is a Convention party. The Hong Kong Environmental Protection Department (EPD) was designated as the competent authority under the Convention to enforce the control on import, export and transit of waste in the Hong Kong Special Administrative Region.

4 LEGISLATIVE CONTROL FRAMEWORK

The control of waste import and export in Hong Kong is effected under the Waste Disposal Ordinance (WDO), Laws of Hong Kong Chapter 354, with the the Environmental Protection Department designated as the enforcement authority. The control scheme, which enables Hong Kong to fulfill its international obligations under the Basel Convention, came into operation on 1 September 1996.

Under the Waste Disposal Ordinance, any import and export of prescribed hazardous, non-recyclable and contaminated waste for whatsoever purpose; and import and export of other waste for a purpose other than recycling must be authorized by the Environmental Protection Department through a permit. A person who commits a first offence could be fined a maximum of up to HK\$200,000 plus a 6 month prison term and up to HK\$500,000 plus a 2 year prison term for a subsequent offence.

5 ENFORCEMENT CONTROL

5.1 Modus operandi

The implementation of an effective enforcement control program is essential in preventing and deterring illegal waste trafficking. The Environmental Protection Department monitors closely the waste import and export activities based upon the waste trade pattern and the modus operandi of past illegal shipments.

In general, waste is shipped from developed countries such as the USA, Japan, and The Netherlands through Hong Kong into the Mainland China (Figure 2). In this regard, the emphasis on the control of the movements of wastes has been directed toward the supervision of the flow of wastes from these particular countries to Hong Kong.

Of those illegal shipments originated from overseas countries and intercepted in Hong Kong in the past 2 years, the wastes involved are mainly contaminated waste (i.e. wastes that have been mixed with hazardous substances) or non-recyclable waste. These shipments were often declared as non-hazardous scraps (e.g. 'mixed metal scraps' and 'plastic scraps') and imported by small trading firms in Hong Kong with no waste recycling facility. These shipments are generally exported by small agents, rather than the original waste generators, in overseas countries. Prior to their arrival in Hong Kong, some of these shipments changed hands several times. In certain cases, difficulties were encountered by the overseas authorities in ascertaining the place of origin of the shipments and the original exporter of the waste.

5.2 The Control Program

The control program encompasses the detection of illegal activities, investigation, management of the intercepted cargo and legal action:

- a) **Interception and Inspection** - through intelligence received from various local and overseas sources, dubious waste shipments are intercepted for inspection at key control points such as container terminals.
- b) **Investigation** - upon the detection of illegal shipments (i.e. waste shipments without the prior approval of the Environmental Protection Department), further investigation will be conducted to determine the parties responsible for the import activities. Collection of evidence could be conducted locally and in overseas countries concerned.
- c) **Management of Illegal Shipments** - illegal waste shipments must be returned back to the place of origin in accordance with the requirements of the Basel Convention. The importer and the shipping company involved would normally be responsible for arranging the return shipment.
- d) **Legal Action** - upon the collection of sufficient evidence to prove that an act of illegal waste import has been committed and identification of the parties responsible for the import, legal action will be taken.

Waste interception, inspection and investigation are the key components which will be continuously adjusted and fine-tuned in response to changes in the patterns of the waste trade and illegal waste trafficking.

5.3 Partnership in Enforcement

The Environmental Protection Department works with local and international authorities in the enforcement of controls on transboundary movements of waste. In Hong Kong, the Environmental Protection Department works very closely with the Customs and Excise Department in the detection, interception and inspection of dubious waste shipments at the key control points. Internationally, it collaborates with overseas competent authorities in the detection and investigation of illegal waste trafficking and the management of the waste until it is safely returned back to the place of origin. The following sections focus on the enforcement efforts that the Environmental Protection Department undertakes in cooperation with overseas competent authorities.

6 PREVENTION AND DETECTION OF ILLEGAL WASTE SHIPMENTS

6.1 Interception of Waste Shipments

The Environmental Protection Department detects illegal waste shipments through review of information contained in the shipping manifests. Through experience gained from past enforcement, selection criteria have been developed based on the following:

- a) Records of an Importer - the targets are Hong Kong consignees with no local recycling facility or a record of poor waste trading practices (e.g. lack of detailed waste specifications, contractual liability arrangements, etc.).
- b) Exporter - the targets are companies previously involved in other illegal or problematic shipments and those companies provided by overseas control authorities.
- c) Waste Description - the targets are waste shipments with an obscure waste description such as 'mixed scrap' or 'second hand scrap'. Certain common waste descriptions are also found to be problematic, examples include 'mixed metal scrap', 'computer scrap' and 'sludges'.

Waste shipments meeting one or more of the criteria would be selected for inspection. Random inspection of all kinds of waste shipments will also be conducted to achieve comprehensive control.

6.2 Exchange of Information with Overseas Enforcement Authorities

The Environmental Protection Department has been liaising with the competent authorities of the major waste trade partners to share operational experience and to fine-tune the criteria for selecting waste shipment for inspection and defining the acceptability of waste. The Environmental Protection Department will continue to update the criteria based on experience gained in enforcement.

Due to the heavy sea cargo traffic at many international ports and the time consuming tasks for screening shipping information and conducting inspection, dubious waste shipments may sometimes escape inspection at the states of export prior to their departure. In this regard, the Environmental Protection Department has made arrangements with some competent authorities including the Dutch and Belgian authorities that under such circumstances, they would provide information on the name of vessel, the container-number(s), and the date of departure

in order to arrange interception of the waste shipment upon its arrival in Hong Kong. This is beneficial to both authorities as it allows extra time to scrutinise shipping information and to coordinate the necessary enforcement activities.

7 MANAGEMENT OF ILLEGAL WASTE SHIPMENTS

Upon interception of an illegal shipment of hazardous or contaminated waste, the waste importer would be required to make arrangement to return the waste back to the country of origin as soon as possible. In this regard, the Environmental Protection Department would liaise with the competent authorities of the states of export and transit to facilitate early return of the waste in accordance with requirements of the Basel Convention.

In order to expedite the arrangement to return the waste shipment, the Environmental Protection Department would transmit to the competent authorities information on the shipment details, shipping documents and the types of waste intercepted. In addition, particulars on the exporter and the waste generator obtained from the local importer would also be provided to facilitate the identification of the parties involved at the country of export. Since 1996, the Environmental Protection Department has liaised with the overseas competent authorities in returning illegal waste shipments on over 10 occasions. The success in this effort results in no stranding of illegal waste shipment in Hong Kong.

8 DISCUSSION

Since the commencement of the comprehensive control on import and export of waste in September 1996, the Environmental Protection Department has brought over 30 convictions. In the same period, the Environmental Protection Department has returned over 10 shipments back to their places of origin.

In order to strictly control the transboundary movements of waste, the Environmental Protection Department will continue to strengthen its ties with overseas competent authorities. This kind of close interaction will help to promote waste importers and exporters to exercise self-discipline, hence resulting in lower incidence of illegal waste shipments.

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