

Report on UN Sabbatical Leave 2014

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Why has the Basel Convention not adequately addressed the transboundary movements of hazardous waste to the developing world?

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1. The sabbatical leave report is submitted in compliance with ST/AI/2011/1, para 5.7 that commenced on 1 March 2014 and concluded on 27 June 2014.
2. The primary purpose of the sabbatical leave was to undertake my doctoral research at Rutgers, the State University of New Jersey.
3. During the given period, I developed the dissertation proposal (the background and the political aspect of the Basel Convention, the literature review and the research design) that I successfully defended.
4. Presently, the length of the dissertation work is 135 pages thus I only included some of the main concerns in my report. Currently, the research is in the last phase that focuses on the discussion and the recommendations; therefore, the complete dissertation is not available yet. The dissertation defence is expected to begin during the early part of 2015.

Abstract

The objective of the study is to examine whether the Basel Convention is capable of adequately protecting the developing world from becoming a dumping ground for the wealthier nations. It became evident that the hazardous wastes, generated by the developed countries, were transported (mainly illegally) to developing nations for final disposal during the 1980s. However, environmental regulations began to appear from governments that affected the flexibility of private businesses to easily dispose of their wastes. The routine nature of this business became a complex task as well as an expensive one. As a consequence, business and elected government officials were looking for alternative methods of dumping the wastes that were no longer needed in their respective countries. This process affected the developing nations worldwide and was seen as morally wrong; therefore, NGOs and the media wanted international involvement and action. The result was the Basel Convention, which controlled rather than banned the transboundary movements of hazardous waste. Despite its substantive weakness and the fact that it did not include an outright ban on the waste trade among the wealthy and poor countries, the Basel Convention remains one of the most important multilateral agreements concerning regulations on the transboundary movements of hazardous waste. The outcome of this study should strengthen the importance of this topic and support each actor during the developmental measures of effective and efficient strategies; and, in turn, this should have a positive effect toward decreasing the illegal trade of hazardous waste globally.

Introduction

Due to the innovation of technology, as well as the increase in the production of goods and services, hazardous wastes have begun to rise in the developed countries; and, in doing so it has become one of the most serious threats to human life and the environment (Fikru 2012). Nowadays, Member States fundamentally are faced with difficult regulatory problems at various levels in order to safely manage hazardous waste. The crucial elements from the by-product of hazardous waste (i.e. storage, transportation, disposal procedures and best practices to minimize waste) are that it is extremely expensive for the industries, as well as imposing a significant burden on governments to enforce (O'Neill 2001). In addition, the inappropriate handling of hazardous waste can also negatively influence the environment, as well as human health through the passing of toxins into the atmosphere, groundwater or soil.

Within the past twenty years, there have been a number of well-publicized cases that have focused on the danger of growing trade, as well as the problem of controlling the movements of hazardous waste from wealthier countries to the poorer nations (Krueger 2009). For example, a hazardous waste shipment from Philadelphia (containing some of the most toxic chemicals in the world composed of heavy metals, dioxins and furans) was dumped on a Haitian beach, in 1986, from a barge called the *Khian Sea*. Despite the Haitian government's intervention, the *Khian Sea* left behind approximately 3,000 tons of toxic waste on the beach. The barge returned to Philadelphia with the bulk of its toxic ash; and, consequently, following the episode it spent nearly two years searching for a dumping site in order to dispose of the remaining shipment. The exposure of this conflict, as well as other opposing factors, convinced several countries to create procedural and transboundary controls for the movement of hazardous wastes between the wealthier and poorer nations (Harjula 2006).

As a result, the international community began to respond to the hazardous waste trade through dialogue and deliberations led by the United Nations Environmental Programme (UNEP), the Organization for Economic Co-operation and Development (OECD), the European Union, as well as support by various non-governmental organizations, for example: Greenpeace International. In addition, this important issue also gained substantial attention from the global media (O'Neill 2001).

In order to prohibit the export of hazardous waste to developing nations, one of the most important multilateral environmental conventions adopted in 1989, was entitled, "the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal". The treaty came into effect in May 1992 and the primarily goal was to reduce the waste generation as well as advocate for the environmentally sound management of hazardous waste (Clapp 2001). Furthermore, the convention - that has over 170 participating countries - restricts the exportation of hazardous waste from one country to another, unless there is a notice of and consent thereof that exists between the countries (Barbour 2012). With reference to the Basel Convention, the subsequent Conference of the Parties addressed issues regarding the trade of hazardous waste at its second meeting in March 1994. During the meeting, the parties adopted a decision, whereby, they would ban all exports of hazardous wastes from OECD to non-OECD nations. Furthermore, the participants also agreed to phase out all trade with the purpose of recovery or recycling operations within these two groups, by December 1997 (Lipman 1999).

During the third meeting of the Conference of the Parties in 1995, the Member States adopted the ban as a formal amendment to the Convention. Thus, countries listed in Annex VII of the Convention (all the industrialized countries) were prohibited to export hazardous waste for recycling or final disposal to non-Annex VII nations (Chasek, Downie and Brown

2014). Despite these efforts, still the Basel Ban Amendment still has not been entered into force; and, it is questionable if it ever will be because there are a number of countries that oppose the Amendment.

In principal, the Basel Ban Amendment met the prerequisite number of 62 ratifications - 3/4 of the Parties attended (82) in 1995 - when the decision was adopted. However, although the magic number (62) had been reached, some representatives of Member States noticed that the text within the Convention, referencing to the entry into force of the amendments, was vague. Therefore, some states seized the opportunity to discredit the ambitious wording by using it as a means to hold back their right to enter it into force. Today, there is still a gridlock by the Parties regarding the content, understanding and meaning of article 17, paragraph 5; so, it is likely that the Office of Legal Affairs of the United Nations will utilize the "current time" approach that needs a ratification of 3/4 of the majority of Parties at any given time. In doing so, this method would require that 133 countries ratify the Amendment but this outcome will probably not occur within the next twenty years (BAN 2011).

So, one may note that the Basel Convention - along with the Amendment – indeed, was the most important tool to regulate the transboundary movements of hazardous wastes; but, due to the lack of a total ban on waste trade, it has created difficulties toward successfully addressing the problems surrounding the illegal waste trade between the OECD and non-OECD countries. For example, the Brazilian authorities had returned 1.500 tonnes of hazardous waste to Britain in August 2009. During this process, it was discovered that the containers that had arrived, between February and May, were ultimately labelled recyclable plastics; but, the vessels actually contained domestic waste as well as hospital material such as batteries, used syringes and old medicine (MercoPress 2009).

This and many other examples have clearly illustrated the globally growing challenges in the awareness and movement of waste that can't be controlled unless proper enforcement policies are to be implemented.

The background and the political aspect of the Basel Convention (main points)

During the negotiations, major differences emerged between the African countries and the industrialized nations (Chasek, Downie and Brown 2010). It soon became apparent that the main obstacles that would be debated would be the political and economic viewpoints (Petsonk 1989). As Montgomery (1990) noted, political differences could not be ignored between the North and South regarding the waste trade problem. Additionally, he remarked that developing countries should have been able to set the tone regarding these issues due to the fact that they were the victims of their own economic comparative advantage in waste disposal. He further noted that the North-South discussion changed from the exploitation of raw materials to taking advantage of the political and economic weaknesses for the North's benefit.

This notion was clearly characterized by one of the Nigerian citizens in his letter to the African Concord following the Koko, Nigeria incident, stating that, "*The ongoing attempt to dump toxic nuclear waste in Africa is patently a new imperialist warfare against Africa and its people...In the past we were being bought as slaves and used as chattels. They looted our riches, colonized and partitioned our land. Presently, we are still being neocolonized, balkanized, plundered, exploited, and poisoned by the same forces*" (Christrup 1988 p.14-15).

The principal dispute of the African countries was surrounded by the issue that they were requiring an outright ban on hazardous waste exports and were seeking export-state liabilities as a consequence of the illegal trafficking of the wastes due to the fact that many developing states did not have the administrative, technical and financial means to enforce a total ban on their own (Petsonk 1989, Chasek, Downie and Brown 2010). An expert from Jamaica stated - during the second session of the ad hoc working group - "*Developing countries which received hazardous wastes suffered permanent environmental damage since their knowledge of the nature of the wastes and their expertise and technology to handle them were insufficient. The result was a transfer of pollution from industrialized to developing countries. The Convention should not provide a means to permit those practices*" (UNEP/WG. 186/3 p.5). While sharing the concerns of African nations during the same session, the observer from Greenpeace International expressed similar views and added "*Greenpeace International was calling for a world-wide ban on all exports of hazardous wastes as the only guarantee for the protection of the global environment*" (UNEP/WG. 186/3 p.9).

Christrup (1988) also shared the view that a total ban on the transboundary movement of hazardous waste was probably the best response. She believed that a ban would safeguard the environment from insufficient disposal methods; and, it would also prompt the developed and other waste generators to make efforts to re-think the long-term solutions to the waste problem. As Christrup (1988) further noted, the waste trade is not a problem itself but an indication of the failure of the developed countries to intelligently deal with the fact that it is generating far too much waste. As Jim Vallette said, "*Banning the international waste trade is one very important step in stopping the contamination of our water, ground and air. Providing waste makers with escape valves, such as export, is moving us in the wrong direction. The only real solution, if these countries decide against becoming party to the toxic crisis, is to reduce waste at the source to stop it before it's ever produced*" (Christrup 1988 p.16). As Petsonk (1989) noted, a total ban would force waste reduction at the waste generator that would most likely contradict the interest of the developed countries.

As scholars and experts described the positions of the North-South as it impacted the issue of a total ban, one could see that their views greatly differed. The negotiations will continue on this matter for many-many years to come but despite the efforts of the Member States, there has not been a satisfactory consensus on this matter until the present day. It is an incredible difficult task to curb waste trade, especially when the developing nations who are poor and in need of revenue see waste trade as a source of monetary value. So, in general one might feel that the economic interests of Member States overrides the ability of the Convention to provide real and practical export controls that could put a stop to or at least decrease the growing hazardous waste trade market.

The industrialized countries wanted a convention that would permit trade through the utilization of the informed-consent regime (Chasek, Downie and Brown 2010). However, as Hackett (1990) noted some of the countries wanted the written consent to always be provided prior to the export of the wastes; while, others argued that the requirement of a consent notice should only be utilized if the receiving country didn't provide a required response within a certain period of time. Vilcheck (1990) further noted that developing countries argued that they should have the right to reject transit of hazardous waste across their territory unless a prior informed consent was provided. However, the developed countries did not have the same opinion regarding this proposal because they were concerned that the majority of the developing nations lacked the appropriate means to deal with the paperwork, thus, they might make it difficult for shipments to be processed through. An expert, from Malaysia, somewhat summarized the general concern of several developing countries by emphasizing, "*that the*

interests of transit countries had yet to be adequately addressed in relation to the need for informed consent, as well as the responsibility of the exporting country in the event that a movement of hazardous wastes could not be completed“ (UNEP/WG. 186/3 p.6). As scholars have illustrated, Member States had proposed various ideas as to how the prior informed consent should have functioned. So, in as much one might consider that the attempt by both sides to validate their standpoint on this matter was made in order to ensure their specific national interest.

The industrialized countries also argued that the convention should not have annulled the current and pending bilateral and multilateral agreements regarding the transport, recycling and disposal of waste. Moreover, the developed countries stated that most of the international hazardous waste shipments had an economic significance; therefore, many of the states would oppose a flat ban (Petsonk 1989). In addition, the anti-ban coalition argued that the transboundary movements of hazardous waste to other countries should have been allowed if they were to be disposed of in an environmentally sound manner at a lower cost. Yet, at the same time some of the developed nations faced the negative judgment of the public; and, local communities argued against the idea of building new waste disposal facilities that in effect would cause the increased need for hazardous wastes to be exported (Selin 2010).

According to Petsonk (1989), the most politically sensitive matter at hand was the battle over the right - expressed by many developed and developing countries - of a transit state to control the hazardous waste shipments within its territorial sea and restrictive economic zone. In other words, how will the territorial waters be determined in the case of a transit state (Hackett 1990). Based on this specific concern, the Executive Director of the UNEP held countless formal and informal meetings with representatives from both sides of which numerous proposals were submitted to the working group that identified these issues as well as their possible solutions. However, due to the constant influx of new participants into this process it became enormously difficult to draw consensus based on the fact that each agreement reached in principal seemed to fall apart at the next consultation. For example, delegations who had participated during the earlier stages of dialogue were disappointed when they became aware that the results of their hard work was beginning to crumble; while, new comers had begun to develop a sense of frustration as they felt that the ‘veteran’ delegates were trying to exclude them from the process (Petsonk 1989).

During the final bargaining stage that took place in Basel, Switzerland, in March of 1989, the veto coalition headed by the United States took advantage of the fact that exporting countries could continue to find poor states who were willing to accept wastes (Chasek, Downie and Brown 2010). Moreover, rumours had spread that some African states were discretely negotiating advantageous waste import deals on their own (Petsonk 1989). Although, at the time of the negotiations the United States had only exported 1 percent of its hazardous waste mainly to Canada and Mexico; but, it had led the veto coalition due to its ideological standpoint that had refused the limitations on its right to export. An ultimatum was then given, by the veto coalition, to those countries who advocated for the ban to accept an informed-consent mechanism or get none at all. In response, the OAU (Organization of African Unity) recommended amendments be implemented in order to ban the export of wastes to states who lack the same level of facilities and technology as the exporting nations, as well as require the inspection of disposal sites by the UN inspectors. Unfortunately, many developed countries found these amendments to be unacceptable (Chasek, Downie and Brown 2010).

Contrary to the demand of the developing countries, Selin (2010) noted that there were several developing nations who neither joined the African countries in their objective nor supported the pro-ban coalition in their call for a trade ban; but, instead they supported the continuation of the trade of hazardous waste. These countries believed that the waste trade had played an important role of their particular domestic efforts to stimulate the economic development and industrialization of their country. Furthermore, they were convinced that waste imports would bring additional income, as well as provide opportunities to gain access to certain materials and equipment discarded by Northern nations that was valuable for the developing countries. Selin (2010) further noted that during the time of the negotiations, the UNEP, under the leadership of Mostafa Tolba had also shared the view of the pro-trade coalition and also amenable supported a continued but regulated trade in hazardous waste.

Similarly to Selin (2010), Clapp (2001) and Kummer (2010) also noted that the UNEP didn't advocate a total ban of international hazardous waste transport because it was not convinced that the total ban was the most appropriate answer from an environmental viewpoint. Furthermore, they believed that a total ban would exclude shipments in a country where waste disposal might be carried out in a more environmentally sound manner than the country of origin. Kummer (2010) further noted that the developing nations and the environmental NGOs were extremely angry because the UNEP took a pro-trade position and they interpreted it as a betrayal of their struggle against the illegal trade, as well as an active support of the aims of the developed nations. Clapp (2001) added that the key interest of the developing nations was to conserve the environment as well as the justice and economic development opportunities over the long term. President Gnassingbe Eyadema of Togo, referring to the Basel Convention, noted that, "*Our efforts for the economic development of our states and for the progress of our people will be in vain if we do not...preserve the lives of our people and the environment*" (p.41).

So, has the Basel Convention adequately addressed the transboundary movements of hazardous waste to the developing world? So far, what we have ascertained is that this might not be the case based on the fact that the developing world was unable to achieve the total ban on the transboundary movements of hazardous wastes for their respective territories during the negotiation process, even though the ban would have been morally right. As some scholars had illustrated, the veto coalition led by the United States fought very hard to avoid the possibility of a complete ban. Therefore, one might believe that the Convention simply became a monitoring mechanism of the transboundary movements of hazardous wastes rather than a tool that prevented or prohibited it. Moreover, the prior informed consent that was supposed to be destined, as a crucial mechanism to be utilized will prove in the years ahead to be an inadequate system due to various reasons, as has been discussed in the literature review.

The Convention was composed during a relatively short period of time and seemed to be more lenient towards the interest of the developed nations rather than the developing world. Although given these facts and the entire purpose of the Convention, hasn't this process been an oxymoron in its protection the developing world from the unwanted trash of the rich nations? Do the political and financial gains really outweigh the life of millions of people in the developing world as well as the importance of preserving the earth for future generations? In the latter development of this dissertation, some insight to these questions will be provided that might prompt the reader to believe that the Convention did not serve as a catalyst to encourage waste reduction (as Member States would have expected), discourage fraudulent activities between trading entities or offer economical inducement in order to urge compliance in general.

The most important question - the total ban - remained unresolved but this discussion will be further negotiated amongst other issues at the meetings of the Conference of the Parties (hereinafter COP). Article 15 of the Basel Convention established the Conference of the Parties that was to be composed of governments whose countries had accepted, ratified or acceded to it (Basel Int.). According to the Basel Convention the Conference of the Parties, it was to be tasked with various responsibilities, for example; promoting the harmonization of policies, strategies and measures and minimizing the harmful effects of hazardous waste on human health and the global environment. Moreover, the COPs were also responsible for the continuous review and evaluation of the process so that the Convention would be effectively implemented (Basel Convention 1989). Although, in retrospect one may note that it would have been a challenge in fulfilling some of the duties of the COPs as most of the Member States may have acted in the best interest of their constituents rather than in the interest of the greater good. This struggle has surely been demonstrated as we reflect on the negotiations that led up to the adoption of the Convention.

The first Conference of Parties (COP-1) took place, in 1992, where the Group of 77 (G-77) bodies of developing countries re-established the idea of a complete ban of the Basel Convention. The force with which the developing countries argued for a global ban stunned the OECD countries. For example, the head of the Indian delegation, Mr. A. Bhattacharjya, expressed the feeling of the developing nations when he noted that, *"You industrialized countries have been asking us to do many things for the global good - to stop cutting down our forests, to stop using your CFCs - now we are asking you to do something for the global good - keep your own waste"* (Puckett 1997 p.5).

Knowing the seriousness of the situation, the OECD states realized that if the question of a total ban comes to a vote they would be outnumbered and receive little support to oppose it; therefore, they made every effort either to reach some compromise or delay the ban (Puckett 1997). Nevertheless, after the heated debate COP-1 adopted Decision I/22 that *"requests the industrialized countries to prohibit transboundary movements of hazardous wastes and other wastes for disposal to developing countries...and further requests developing countries to prohibit the import of hazardous wastes from industrialized countries"* (Wirth 1998 p.238).

During the second COP (COP-2) that took place in Geneva, March 1994, many countries led by the G-77 proposed the implementation of a complete ban – including those shipments that were for recycling purposes - on hazardous waste exports from OECD countries to non-OECD countries (Wirth 1998, Chasek, Downie and Brown 2010). During this segment of the discussion, the G-77 refused to compromise with the United States, the EU, Australia and Canada. The developed nations presented various watered down ideas but the chair of the G-77, Sri Lankan representative Dr. Nesiiah stated that, *"These proposals have loopholes that would quickly widen. We would have a flood of movement from OECD to non-OECD countries - from countries that can cope to countries that cannot."* He further added that, *"The G-77 will not negotiate on the ban... the only room for negotiation is the starting date"* (Puckett 1997).

Puckett and Fogel (1994) added that the EU even proposed a list of developing countries that might have been willing to accept various types of wastes that would have been drawn up and published. This "global designated dumping grounds" idea in their view was actually an attempt to gain some time in order to break the non-OECD unity while passing the responsibility of the problem to the non-OECD nations. In response to this suggestion, Kante from Senegal stated that, *"It is unacceptable to us; it is a mixture of nonsense"*; while, Mr. Miguel Arujo from El Salvador added that, *"we cannot allow this situation that requires us to be alert to continue. We need to adopt the ban once and for all... Why is this so difficult"*

if, as industrial countries have said, only 1% of OECD hazardous wastes are exported to the non-OECD countries” (p. 2)?

Chasek, Downie and Brown (2010) noted that Greenpeace also introduced significant material supporting the G-77 position. In as much, they provided a seven-year study that closely scrutinized more than fifty recycling operations within non-OECD countries. As a result, the evidence of the study was quite disturbing because it indicated the widespread dumping of hazardous wastes that had been falsely marked and shipped as “recyclables”. In addition, it was discovered that many of these shipments were supposed to have been recycled but were just dumped in areas within the developing countries. Consequently, the veto coalition against the ban began to weaken due to some of the veto states - including the United States – that had not ratified the Basel Convention itself; therefore, as non-parties they were not entitled to be part of the decision-making process. Although, they were able to speak in opposition to the ban but were not allowed to vote; and, ultimately their opinions did not officially affect the emerging consensus. At the end of the meeting, the opposition of the OECD was dazed because they did not count on a complete agreement between the G-77, the Eastern European countries and China being reached (Puckett 1997). By the end of the COP-2, the ban was ultimately approved and the remaining opposed states had gained nothing more than a delay in the application of a total export ban (Chasek, Downie and Brown 2010). Sundram (1997), Chasek, Downie and Brown (2010) further noted that the total ban was considerably reinforced during COP-3 – that was held in Geneva during September 1995 - by adopting it as a formal amendment to the Convention in order to avoid ambiguity as to the legal enforceability of the decision.

The negotiations leading up to the Basel Convention, as well as the follow up COPs meetings, demonstrated that the hazardous waste trade issue is a touchy and politically sensitive subject. Within this environment, the Basel Convention attempted to address the transboundary movements of hazardous waste to the developing world but unfortunately was unable to convince the vital actors (i.e. waste-generators, lobbyists and the community at large) at the national level about its importance and relevance. Furthermore, I believe that within its boundaries couldn't make room the ambitions of the North-South whom had conflicting interest and economical situations. These divergent aims and positions still exist today that is well illustrated by the standpoint of the United States (still did not ratify the Convention) as well as the inability of the Basel Ban Amendment entering into force since 1995. Therefore, the challenge remains for Member States to strengthen the abilities of the Convention to prevent dangers of hazardous waste movements although, one may note that this goal only can be achieved if it is supplemented by national legislations and enforcement.

Lastly, the behaviour of the Member States during the negotiation process also provided some insight that may have contributed to the understanding of the issue as to why the Basel Convention had not adequately addressed the transboundary movements of hazardous waste to the developing world. I have confidence that some similarities can be drawn between the decision making of the Member States and polythink. According to Redd and Mintz (2013), polythink can be defined as, "Poly (many) ways of perceiving the same decision problem, goals and solutions" (p.5). In addition, Mintz and Wayne (2014) noted that polythink could have numerous consequences; for example, decision paralysis, group conflict or failure to revisit previously dismissed options. Moreover, polythink could lead to severe disagreements and myriad options; and, as a result it might become nearly impossible for group members to reach common ground in order to achieve a policy goal.

I believe that the question surrounding the necessity to implement or reject the idea of the total ban on hazardous waste exports showed the symptoms of polythink, such as group conflict that was displayed amongst Member States as well as the UNEP during their

negotiations. Member States from the developed and the developing world, as well as the UNEP, had created their own interpretation of this crucial issue and how it should be addressed that resulted in a strong disagreement amongst these players. For instance, the developed countries were looking for a convention that would allow the trade of hazardous waste through the usage of the informed-consent regime; while, the majority of the developing nations wanted an outright ban on hazardous waste exports. On the other hand, some of the other developing countries had argued for the continuation of the trade by claiming that it would excel their economic development. At the same time, the UNEP supported a continued trade, within regulated settings, by arguing that a total ban might not be the solution from an environmental viewpoint. The question of a total ban, as can be observed, had generated various competing viewpoints with the potential for various courses of action; and, this availability amongst the players had hindered any optimal decision-making. As Mintz and Wayne (2014) noted, group conflict "both causes and is caused by the polythink syndrome" (p.340).

In connection with the total ban on the hazardous waste export, it should be noted that another important outcome of polythink would be the removal of key options from the table. In as much, based on the gruelling negotiations that had convened, it is very difficult to reach a consensus when a large plurality of conflicting ideas are presented; therefore, decision makers generally are often hesitant to renew the discussion on a previously dismissed alternative based on the fear of an endless debate (Mintz and Wayne 2014). I consider that the failure to revisit the question of a total ban and keeping it on the table largely contributed to the fact that the Basel Ban Amendment has still not been entered into force to the present day that could have affected the ability of the Convention to adequately address the transboundary movements of hazardous waste to the developing world.

Mintz and Wayne (2014) considered that the lowest-common-denominator for decisions and decision paralysis were the most important syndromes of polythink that could result in the failure to implement a policy. I think the Basel Convention is an example of this phenomenon due to the fact that the Convention was constructed in a way to meet the lowest-common-denominator of compromises that could attain the broadest support from the Member States despite their diverse situations and interests. It should not be forgotten that during the fourth meeting of the working group, the disagreement was so intense that it jeopardized the presentation of an agreed draft document to the Basel Conference that would have undermined the success of the conference itself. I believe that the application of some aspects of the Basel Convention (i.e. definition of hazardous waste or the prior informed consent) was greatly affected by polythink that has ultimately had an adverse impact on its overall outcome up to the present day.

In sum, taking into account the symptoms of polythink with regard to the negotiation process as well as the meetings of the working group, it can be observed that Member States had exhibited polythink. However, despite the elongated conflicting interests of various parties the Basel Convention was born but today, the question still lingers as to whether the Convention has been able to adequately address the transboundary movements of hazardous wastes to the developing world.

Literature Review (some key points)

This chapter will focus on the existing literature that is relevant to the research that proposes the question as to whether the Basel Convention can adequately protect the developing world from the rich nations' hazardous waste. This review will be comprised of various segments that will discuss this important matter, as well as support the composition of the hypotheses.

Limitations of the Basel Convention

The Basel Convention progressed throughout the years; however, scholars regarding important matters raised concerns.

The Definition of Hazardous Waste

The Basel Convention defines "wastes" as substances or objects that are required to be disposed of as well as the means of their disposal (Basel Convention p.6.). Furthermore, it states that wastes that are subject to transboundary movements shall be regarded as "hazardous wastes", if they: a) fall under the waste streams listed in Annex I; b) carry hazardous characteristics as described in Annex III; c) are determined hazardous wastes by the domestic legislation of a Member States; and, d) are "other wastes" (household wastes and its residues from the incineration) listed in Annex II that require special consideration. According to Kummer (1992), the distinction is only terminological because there was no real difference between the two categories of wastes in the provisions of the Convention. She argued that the category of "other wastes" was added as a compromise between the opposing parties during the negotiations. Some of the Member States maintained that household wastes as well as incinerator ash should be included in the scope of the Convention; while, others argued that these wastes should not be considered hazardous as they were not identified as such.

It should be noted that the Convention excluded the radioactive wastes and "*wastes which derive from the normal operations of a ship*" (p.6) based on the fact that they are covered by other international instruments (Basel Convention).

Many scholars (Clapp 1994, Kitt 1995, Gudofsky 1998, Orloff and Falk 2003, Okaru 2011, Pratt 2011) noted that the definition was vague, too broad and data comparisons between countries was challenging due to the various interpretations. Hilz (1992), Murphy (1994), O' Neill (1998), Orloff and Falk (2003) agreed that the classification of hazardous waste is a difficult task due to the fact that countries may classify and regulate the same waste differently. While Hilz (1992) and Murphy (1994) concerns related to the use of terms other than "hazardous" (i.e. toxic, special or dangerous) and those particular consequences in comparison to specific coverage; on the other hand, Orloff and Falk expressed the problems regarding self-reported data on the hazardous waste generation that's provided to the Basel Convention. They stressed that some countries may only include chemical wastes while others may incorporate domestic, hospital and other wastes that they consider being hazardous. O'Neill (1998), opposed to Murphy, Hilz, Orloff and Falk claimed that other substances were identified as possible hazardous contaminants but the results and the name of these wastes were not incorporated in the laws established.

Kitt (1995) and Okaru (2011) argued that a broader definition of hazardous waste needed to be considered but differed in their particular reasoning. Kitt (1995) noted that based on the various explanations of hazardous wastes, exporting parties might not be able to avoid the obligations, under the Basel Convention, in determining a waste as non-hazardous. For that particular reason, even household waste could be considered hazardous if it was not managed properly. On the other hand, Okaru (2011) claimed that the wider definition was to prevent misunderstanding as well as provide a better control and monitoring system. She further added that the Convention aimed to have flexibility in order to influence political and scientific progression of the definition of hazardous waste. In as much, this might be the case but Hackett (1990) Lipman (2002) and Pratt (2011) took a different position and disagreed with Kitt (1995) and Okaru (2011). They noted that vague definitions were not much help for countries to implement an international agreement. According to Hackett (1990), some countries found the definition so unclear that they dropped their enforcement actions due to the fact that they had doubts of an effective implementation. Additionally, Lipman (2002) and Pratt (2011) noted that the vague criteria and interpretation of the word 'hazardous' resulted in the continuous export of these types of wastes under the classification of commodities or raw materials even though these wastes still posed environmental and health risks to the developing nations. They further argued that the diverse national definitions characterizing the broad terminologies of hazardous waste resulted in more complications in the management of transboundary shipments than had been anticipated.

For example, Sende (2010) noted that the United States did not consider scrap metal to be a hazardous substance. However, shipments found to export scrap metal to countries, such as Taiwan, had been found to contain PCBs, lead and asbestos contaminants that were regarded as hazardous chemicals by the Convention. In another situation, Krueger (1999) found that in August 1997, a U.S. company had exported lead acid batteries to a Brazilian recycling plant where it was discovered that the lead concentration levels reached five times higher than the recommendation considered to be safe by United States EPA regulations. Notwithstanding, even though Brazil had banned imports of scrap batteries, since 1994, U.S. law regarded contents, such as batteries, to be considered hazardous only if they were crushed; therefore, under those existing laws the contents were exported legally.

Similarly to Lipman (2002) and Pratt (2011), Montgomery (1990) agreed that the ambiguous language of the Convention allowed States to develop their own definition as to what they in turned considered to be hazardous; however, he argued that it should have been generally accepted that the definition by the Convention was to be regarded as the minimum requirement necessary. In essence, his comment meant that a country could ultimately label more substances as hazardous if they choose but all should fundamentally recognize the existing materials on the list, through the Convention. Contrary to Montgomery (1990), Schneider (1996) noted that the debate on this issue still existed, between the Convention's opponents and proponents, as to what particular wastes ought to be considered within these guidelines. As a consequence to this dilemma, there was no sign of compromise amongst the parties; and, as a result this matter stood as a distinct and serious problem to the overall success of the implementation of the Convention. Schneider asserted that based on the failure to clearly define "hazardous waste", questions were raised as to what the Convention exactly covered. So, as the endless dispute continued and a consensus between Member States lacked regarding a true working definition of hazardous waste, this matter seriously limited the purpose of the Basel Convention.

With reference to the definition, scholars (Kummer 1995, Gudofsky 1998, Hackett 1990, Bradford 2011) also commented on Annex III that listed the hazardous characteristics. Kummer (1995) and Gudofsky (1998) stated that certain elements within the list (H10-H13)

were poorly described whereas others were fairly straightforward. In addition, Kummer (1995) and Bradford (2011) noted the Convention did not establish the 'minimum values of concentration' that would meet the threshold levels of "Explosive" or "Corrosive". As a result, Kummer (1995) argued that it could be possible that a substance with an insignificant quantity of hazardous element might be taken into account as hazardous waste. Gudofsky (1998) also shared the observation by Kummer and Bradford and also added that there were no standardized practices to define the meaning and scope of the Annex III characteristics. Abrams (1990) approached the issue similarly and noted that in order to determine the concentration levels or the combination of substances there would need to be a complex series of chemical analyses conducted. He further added that the Convention fell short of addressing a significant question as to which nation would ultimately be responsible for determining whether the ship carrying wastes had actually a hazardous characteristic. Therefore, without the guidelines to clearly define these characteristics, as Hackett noted (1990), the Member States would reach diverse conclusions as to whether or not a waste was actually hazardous.

As the scholars have illustrated, the vague definition of hazardous waste has been a significant issue. In as much, it has allowed some Member States to develop their own interpretation of what constitutes a hazardous waste or has provided them the political influence over developing countries' enforcement illegal actions that have had a great impact on the management of transboundary shipments. In this regard, one might assume that a strengthened consensus regarding the definition of hazardous waste might have a more serious impact on the ability of the Basel Convention to protect the developing world from the pressures by the developed world from hazardous waste. In the end, Whyne (1989) greatly summarized the dilemma that surrounds the definition of hazardous waste by stating that, "*The imprecision of many key terms and the chronic inconsistency of hazardous waste definitions leaves the boundaries between legal and illegal, satisfactory and unsatisfactory practices ill-defined*" (p. 140).

Prior Informed Consent (PIC)

One of the key provisions of the Basel Convention is the prior informed consent (PIC) that is outlined in Articles 6 and 7. The main idea of Article 6 is that the exporting countries are obligated to notify, in writing, the importing Member States concerning any proposed transboundary movements of hazardous wastes. Furthermore, the exporting state is not allowed to commence the transboundary movement of the hazardous waste until the importing state confirms that the waste in question will be disposed of in an environmentally sound manner. The PIC regulation applies to the Member States of the Convention that might export or import wastes and to those who are simply involved in the transit point of the transboundary shipments. The information required concerning the transboundary movement is listed in Annexes VA and VB. In addition, each signatory of the Convention needs to nominate at least one competent authority in order to administer the PIC procedure (Basel Convention 1989).

The PIC procedure is one of the most widely critiqued elements of the Convention. Some scholars (Handl 1988, Abrams 1990, Krueger 1998, Andrews n.d) expressed their concern regarding the qualifications of the competent authority. Handl (1988) Abrams (1990), Vilcheck (1990), Krueger (1998) and Andrews (2009) noted that developing countries often lack the technical and administrative capacity to adequately assess the implications, the realization of the potential dangers of a particular shipment of waste or the ability to take the appropriate action. On the other hand, Hackett (1990) claimed that this

issue was a two-folded challenge based on the fact that the Convention did not provide the adequate assurances (i.e. the handing-over of appropriate information from exporting nations to the importing nations) in order to allow the importing nations to make an informed decision about the applicable disposal of the waste. Alike, the importing country also may not know or reveal enough data about the disposal facility in order to enable the exporting country to make a sound decision as to whether the facility in question is the proper place for disposal. As a consequence, without this important knowledge the importing nation may give consent for the importation of a shipment with the understanding that they are actually in possession of a sufficient facility to dispose of the waste in question even though the facility may be ill equipped to handle the waste.

Clapp (1994), opposed to Handl (1988), Abrams (1990), Krueger (1998) and Andrews (2009), argued that the wording of the notices could be misleading; therefore, the importing countries might feel burdened during their decision as to whether they should accept or reject a shipment. Contrary to Clapp's (1994) opinion, Andrews (2009) added that the responsibility lies on the importing nation to verify the letter of consent, as well as the existence of an adequate disposal facility. In turn, this would prevent the PIC procedure from becoming exposed to possible abuse and corruption by local officials.

With regard to the case of the Abidjan disaster, Fagbohun (2007) noted that this unfortunate situation exactly happened. The report, prepared by the Commission of Inquiry, found that certain wrongdoing by government officials' directly contributed to the outcome of this serious incident. Additionally, Societe Tommy, the local waste handling company contracted to dispose of the residue was actually dumping these contaminants within various parts of Abidjan. Moreover, Cox (2010) noted that the PIC procedure concerning the initial shipment to Amsterdam was neglected as well as at the port of Abidjan. Later on, information was confirmed that the original documentation was proven to be a fake. For that reason, the situation could have prompted Article 9 of the Basel Convention with reference to the illegal transport or trafficking of waste that wasn't consistent, in a material way, with the completed forms. Due to the fact that the state of export could not be ascertained and the original country that generated the waste was not able to give assurance for its safe disposal, the responsibility and cooperation to act should have occurred based on Article 9 (4) of the Convention.

Fagbohun (2007) and Cox (2010) agreed that the Abidjan incident pointed-out failures of the PIC system under the Convention. Fagbohun asserted that poverty, global politics and hypocritical intervention of national governments could pose a threat to the effectiveness of an international regulatory mechanism, such as the PIC. For instance, poverty made the developed nations more vulnerable as they consumed serious debts; thus, they became more susceptible to money and other incentives in order to dispose of hazardous wastes within their boundaries (Park 1998). Anand (2004) noted that, "*prior notification cannot work in a world where the poison of the rich can be offered as short-term remedies for the poverty of the poor*" (p.73). He argued that governmental approval of the importing nation was not essentially demonstrative of the interest of the citizens or environmentally justified of the receiving country.

On the other hand, Cox (2010) pointed out that there was a lack of supervisory intervention on the part of the Basel Secretariat as well as the absence of country support regarding capacity building and technical assistance that could have greatly impacted the efficiency of the PIC procedure. However, it should be noted that contrary to the intention of some negotiating states, Kummer (1992) noted that with a few exceptions, the Convention has no supervisory function because its primary responsibility is limited to coordination and monitoring. Although in the absence of supervisory competence, this could be a major

shortcoming concerning the efficiency of the PIC procedures. As Cox (2010) indicated, there is a need for a more thorough approach to the assessment of environmentally sound management, support for local infrastructure development as well as the evaluation of the possible impact on the environment. Similarly, Kummer (1995) observed that, “*clearly, the successful application of the PIC system depends on a sophisticated national infrastructure*” (p.81), as well as resources and expertise (Krueger 1998, Hackett 1990).

Krueger (1998) was also concerned that the falsified documents regarding the content of the proposed waste shipment could greatly circumvent the PIC procedure. He stated that Greenpeace has recorded occurrences when hazardous wastes were labelled as something else rather than the actual materials that were in the shipment. Vilcheck (1990), Clapp (1997), Dorn, Van Daele and Vander Beken (2007) as well as Liddick (2010) identified another problem that created serious headache for the developing nations. As Vilcheck (1990), Dorn, Van Daele and Vander Beken (2007) as well as Liddick (2010) explained that the low level of integrity of the waste, meaning the physical nature of the product could be manipulated with the intent of deception, such as: hazardous waste mixed with non-hazardous waste (the legal trade in recyclable material is a good example). The so-called ‘mirror entries’ (Council Decision 94/904/EC) opened up opportunities to disguise the proportions of hazardous and non-hazardous wastes. These ‘mirror entries’ as Beken (2007), Dorn, Van Daele and Vander Beken (2007) noted only deemed hazardous if the concentration of hazardous substances increased to a certain proportion; therefore, when it was necessary to take samples it was a costly procedure and required the appropriate equipment.

To cover hazardous waste and sell it as a legitimate commodity, Clapp (1997) and Liddick (2010) demonstrated that in the case of Bangladesh, in 1992, they received 1000 tons of copper smelter furnace dust that contained high levels of lead and cadmium. The waste was mixed with fertilizer by several U.S. companies and was sold to the government of Bangladesh with the help of the Asian Development Bank. Although, before this scheme could be prevented, Bangladeshi farmers in the fields had already spread the waste; but, the involved parties responsible were ultimately brought to trial within the U.S., convicted and forced to pay a fine of 1 million U.S. dollars. Krueger (1998) claimed that if the competent authority did not expose fraudulent activities or worth, then the competent authority would be suspect to the illegal activity and thereby the PIC procedure would be null and void. Clapp (1997) added that disguised waste has been a significant problem for developing countries, as most of them have not had the resources to determine the contents within every import container.

Another significant limitation that has handicapped the proper functioning of the PIC procedure is the ability to monitor and enforce these means. Based on Article 13 (4), Krueger (1998) stated that compliance monitoring was severely limited because parties were not required to send copies of the notifications and responses to the Secretariat unless a country believed that the environment would suffer by a given offer. Previous drafts regarding the Convention, as Kummer (1995) noted, incorporated an obligation of sending copies of all notifications and final responses to the Secretariat. However, some industrialized countries were opposed to this provision; thus, it was not included in the final draft. Abrams (1990), compared to Kummer (1995), also claimed that the developed countries rejected the inclusion of this approach in the final draft due to the principles that keeping track of all shipments would not be efficient utilization of the Secretariat's assets. As a result of the exclusion of all notifications to the Secretariat, this led to a significant restriction of the Secretariat's monitoring function in reference to the PIC procedure (Kummer 1995). Clapp (2001) expressed similar views and added that the Basel Convention Secretariat did not have legitimate authority to observe the behaviour of the Member States or to use sanctions in

order to ensure compliance. With such a susceptible mechanism for ensuring compliance, there is a serious concern that developing nations might be persuaded into accepting waste imports without proper checks and balances regarding whether wastes were disposed of safely. To support this notion, O'Neill (2000) added that the Convention only observed the actual transfer of wastes from one country to another but it did not make certain that wastes were appropriately disposed of at their final destination. Krueger (1998) further added that during the movements of hazardous wastes, if the PIC procedure was not followed then it would be difficult to enforce liability concerning the illegal movement or transfer that would be environmentally damaging.

The PIC procedure established a significant importance to the research question based on the fact that it added relevance to the regulations regarding the transboundary movements of hazardous wastes between the parties of the Basel Convention. However, as it was illustrated by many scholars there have been many situations and attempts when the procedure was circumvented. As of now, the Secretariat does not have the mechanism and authority to ensure the accuracy and the effectiveness of the PIC procedure. In addition, despite the fact that the Convention outlines the right of the parties to prohibit the import of hazardous waste, the truth is that Member States might not exercise this right in the view of a potential financial compensation. For this reason, one may note that the PIC procedure is irrelevant due to potential actions of government officials who knowingly carry out these unlawful exploitations. Therefore, the success of the PIC procedure is greatly dependent upon the activities of the Member States, as well as its willingness to accurately implement these protocols. Otherwise, the Basel Convention will become more incapable of protecting the developing world from the rich nations' hazardous wastes.

Quantitative Analysis (one of the main issues)

As I have discussed in the literature review, scholars stated that the classification of hazardous waste on the national level varies because Member States classify and regulate the same waste differently; therefore, the comparison of self-reporting data can be challenging. During my research, I have found that the literature lacks quantitative analysis that would test the association between these two variables. As a result, I decided to examine how the national definition of hazardous waste for the purpose of transboundary movements of waste and the self-reporting data (export of hazardous waste) relates to one another.

I believe that my findings will be interesting based on the fact that the results provide some new insight with regard to the concerns of the scholars who address the issue of the definition of hazardous waste and self-reporting data.

During my calculations, 95 countries were included in the study from 2007 to 2011 that reported the data of their transboundary movements of hazardous wastes as well as the national definition of hazardous waste for the purpose of transboundary movements of waste to the Secretariat of the Basel Convention. For the purpose of this research, the export of hazardous waste (in metric tons) provided by the Member States will be utilized for the calculations. It should be noted that the number of countries who reported their export of hazardous waste was different during each reporting year as some of the Member States were not consistent with their data submission. Within my analysis, the independent variable is the various national definition of hazardous waste used for the purpose of transboundary movements of waste; while, the dependent variable is the self-reporting data (export of hazardous waste). I restructured the dependent variable so that it could be analysed as an ordinal variable. I used the Chi-square test to find out if any association does exist between the variables. When the relationship was present between the variables, I applied Gamma to

further analyse the strength amongst the national definition of hazardous waste and the self-reporting data (export of hazardous waste).

Within my study, I used the p-value with the 0.05 significance level (one of the most common fixed value) as a standard for evidence against the null hypothesis. It means that if $p < 0.05$ or equal with 0.05, there is no more than 1 chance in 20 that my sample would provide evidence this strong just by chance when the null hypothesis is actually true. Thus, if the p-value is as small as or smaller than 0.05, it can be established that the data are statistically significant at level 0.05. 'Significant' simply means that 'not likely to happen just by chance' (Moore 1996).

The degree of freedom is also important in the Chi-square test because it factors into my calculations of the probability of independence. When I calculate the Chi-square value then I use this figure and the degree of freedom (two in my research) in order to decide the probability, the p-value of independence.

Below, I discuss my results and its relevance to my research question as to, “why has the Basel Convention not adequately addressed the transboundary movements of hazardous waste to the developing world?”

Results

In order to assess the relationship between the variables, I implied the following hypothesis:

The null hypothesis: the national definition of hazardous waste used for the purpose of the transboundary movements of waste and self-reporting data (export of hazardous waste) are independent.

The alternative hypothesis: the national definition of hazardous waste used for the purpose of the transboundary movements of waste and self-reporting data (export of hazardous waste) are not independent.

Tables 1 and 2 present the results of five years (2007-2011) of the variables. The result computed for the years of 2008, 2010 and 2011 showed no association between the two variables ($p > 0.05$); therefore, I couldn't reject the null hypothesis. My result doesn't necessarily mean that the null hypothesis is true because failing to obtain evidence against the null hypothesis may only suggest that the data is consistent with the null hypothesis, not that I have clear evidence that the null hypothesis is true. Hence, I consider that the self-reporting data (export of hazardous waste) provided by the Member States has no relation to the national definition of hazardous waste used for the purpose of transboundary movements of waste.

On the other hand, information provided within 2007 presented a different outcome. The result between the independent and dependent variables was statistically significant at the level 0.05, as the p-value was 0.028903; therefore, I could reject the null hypothesis. As Moore (1996) discussed that the small p-value is evidence against the null hypothesis, meaning that the observed result would be unlikely to occur if there wouldn't be an association between the national definition and the self-reporting data (export of hazardous waste). Thus, this information might suggest that the alternative hypothesis is true. As a consequence, my estimate implies that there is a 1.13 percent chance that the submitted self-

reported data (export of hazardous waste) by the Member States is somewhat related to their national definition. Based on this association, I further analysed the significance of the relationship. I calculated Gamma for the given variables that resulted in 0.26 (26 percent) that suggests a relatively weak positive relationship amongst the variables.

The year of 2009 provided a similar result regarding the p-value that is 0.0172 (1.72 percent) at the significance level 0.05; thus, the null hypothesis could be rejected. The estimate proposes that there is a 1.72 percent chance that the self-reporting data (export of hazardous waste) provided by the Member States has some relevance to their national definition. Gamma 0.40 (40 percent) showed a moderate positive association between the national definition of hazardous waste used for the purpose of transboundary movements of waste and self-reporting data (export of hazardous waste). This result could be interpreted that the data provided by the Member States might be slightly more reliable than in 2007.

While I reviewed the dataset prior to the calculation (year by year), I observed that some data submitted by the Parties of the Convention might not be genuine. For instance, Liechtenstein reported less than 200 metric tons export of hazardous waste from 2007 to 2010 and then they suddenly rose to 302,275 metric tons in 2011. The explanation of this sudden increase could be various and it is not in the scope of this study; but, one reason could be that presently, Germany discards the most electronic waste in total in Europe but Liechtenstein throw away more per person (Vidal 2013). Could this be the rationalization of the increasing export of hazardous waste? It might be, although, the electronic waste is not considered hazardous waste in the national definition of Liechtenstein and it's not within the scope of the Basel Convention; therefore, it is hard to determine whether the electronic waste was included in the submitted data.

Another example is China, where the generation of hazardous waste was increasing from 2007 to 2010 each year and was reported over 10 million (in metric tons) respectively but the export of hazardous waste varied only between 960 and 1,500 metric tons during these years (2007-1,083; 2008-969; 2009-1,353 and 2010-1,424). There was no data reported for 2011.

Based on the data supplied to the Secretariat of the Basel Convention, it seems that the hazardous waste export of China was less than 0.05 percent (taking the hazardous waste generation into consideration) each year between 2007 and 2010. I am doubtful of these data because according to the United Nations Commodity Trade Statistics Database (Comtrade), China for instance exported *lead and articles* - that is considered hazardous waste constituents by the Basel Convention - in the value of hundreds of millions of dollars between 2007 and 2010 (it should be noted that the United Nations Comtrade disclaimer states that the database contains detailed imports and exports statistics that are reported by statistical authorities of approximately 200 countries). Hence, if I further add up the export of other hazardous waste constituents, I would then assume that the value of the exported materials would significantly increase that might require for example, more than 1,424 metric tons of hazardous waste export during a one year period.

Conclusions

The results concerning 2007 and 2009 that were statistically significant at level 0.05 as opposed to 2008, 2010 and 2011; although, the association between the variables displayed a very low connection (2007-1.13 percent and 2009-1.17 percent). The differences between the data could be caused due to various reasons; for example, there might be numerous individuals who compiled the information each year that resulted in inconsistency or the

companies provided more accurate figures taking the national definition into consideration than previous years or the various European Council decisions (i.e. 1013/2006 and 2008/98) somewhat provided some clarification to the Member States in reference to the definition of hazardous waste that contributed positively for data reporting. Despite these and other possible reasons, the results (1.13 percent and 1.72 percent) might be too small that I could ensure with full confidence that the Member States submitted more accurate information in 2007 and 2009 than 2008, 2010 and 2011.

So, how these results can be connected to my research question as to, “why has the Basel Convention not adequately addressed the transboundary movements of hazardous waste to the developing world?”

Apparently, the Member States may have provided information to the Secretariat of the Basel Convention that inaccurately illustrated data in relation to their national definition of hazardous waste used for the purpose of the transboundary movements of waste. Therefore, I think that the figures submitted to the Secretariat, as to how much hazardous waste is being exported globally amongst the Member States, should be treated with serious caution.

I believe that definition of hazardous waste on the national level and the self-reporting data (export of hazardous waste) as well as the issue of the prior informed consent mechanism - that has serious shortcomings as it was discussed in the literature review - relate to one another and have impact on the ability of the Convention to protect the developing world from the rich nations' hazardous wastes. As Krueger (1998) stated the countries are not required to send notifications and responses (concerning proposed waste shipments) to the Secretariat of the Basel Convention unless it is a possibility that the environment would be negatively affected. During the negotiations period, as Kummer (1995) noted, the drafts included the obligation of Member States providing copies of all notifications to the Secretariat. However, this provision was opposed by the developed countries and was not included in the final draft. As a result, Abrams (1990) noted that the exclusion of all notifications resulted in a significant restriction of the Secretariat's monitoring function regarding the PIC procedure.

In addition, it is my belief that the exclusion of the notification also constrained the ability of the Secretariat to obtain fair information in reference to the global amount of the transboundary movements of hazardous wastes between Member States. Due to the fact that the countries do not submit information regarding the transboundary movements of hazardous waste between the Parties to the Secretariat, the accuracy of the self-reporting data can be seriously questioned because the Secretariat has no means of verifying or cross checking the correctness of the given data by the Member States. This fact and the findings leads me to believe that the elimination of the notifications from the final draft and eventually from the Convention itself not only crippled the ability of the Convention to assist the developing countries to stop the developed nations' unwanted hazardous waste exports but also contributed to the fact that the integrity of the dataset maintained by the Secretariat should be seriously scrutinized.

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