

Hazardous waste, environmental crime and finance

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At first sight the Basel Convention has little to do with a financial centre. A closer look shows several connections. The illegal waste trade, one of the most profitable forms of environmental crime, generates proceeds that are laundered through the same channels as those of other serious offences. In 2021 the Financial Action Task Force published a report on money laundering from environmental crime, which covers illegal logging, illegal mining and waste trafficking and estimates the proceeds of these crimes in the hundreds of billions of dollars a year. It notes that waste trafficking often involves legitimate companies, trade-based money laundering through mis-declared shipments and shell companies registered in several jurisdictions.¹

For banks and other financial intermediaries, this means that violations of the Basel Convention can become relevant in anti-money laundering compliance. Under Swiss law, a serious violation of environmental law may qualify as a felony and thus as a predicate offence to money laundering under Article 305bis of the Criminal Code, depending on the penalty provided. Part E, Chapter III described the Swiss anti-money laundering framework and the logic of predicate offences. When a client's business involves waste trading, recycling or shipping, a bank in Basel or Zurich must ask whether the flows are consistent with the client's licences and whether the destination countries accept the waste in question. The Convention thus enters into the risk assessment of financial institutions through the back door of anti-money laundering law.²

There is also a connection through sustainable finance. Investors increasingly ask companies about their handling of waste, including the export of waste to countries with weak controls. Disclosure frameworks for environmental, social and governance factors refer to hazardous waste generation and disposal. Some institutional investors go further and exclude companies involved in breaches of the Basel Convention. The

name of the city therefore appears in the exclusion lists and engagement reports of asset managers, often without any awareness of the city behind it. Part K returns to sustainable finance in the context of the future of the Swiss banking model.³

The Convention also shows the limits of the Basel brand in environmental governance. Critics point out that illegal shipments continue on a large scale, that classification disputes allow waste to be declared as second-hand goods, and that the Convention has no strong enforcement mechanism of its own. The Implementation and Compliance Committee works through facilitation and dialogue, while the liability protocol never entered into force. In this respect the Basel Convention resembles the Basel capital standards more than one might expect. Both depend on national implementation and on the willingness of states and private actors to apply them. Both draw their authority from consensus among the parties concerned. Both derive part of their effect from the reputational cost of being seen to disregard them.⁴

1 Notes

1. Financial Action Task Force, Money Laundering from Environmental Crime, Paris, July 2021, which describes illegal logging, illegal land clearing, illegal mining and waste trafficking as sources of criminal proceeds and gives estimates of their order of magnitude. Figures to be verified. ↩
2. On the qualification of environmental offences as predicate offences to money laundering under Article 305bis of the Swiss Criminal Code (SR 311.0), which depends on whether the offence is a felony (Verbrechen) or, for qualified tax offences, a specific category, see Part E, Chapter III, and the commentaries on Article 305bis StGB. Whether specific waste offences under the Environmental Protection Act qualify to be verified. ↩
3. On references to hazardous waste and to the Basel Convention in ESG disclosure frameworks and exclusion policies of institutional investors, see for example the topic standards of the Global Reporting Initiative on waste (GRI 306) and the published exclusion policies of large asset managers. To be verified. ↩

4. On the criticism of the enforcement of the Basel Convention (continued illegal traffic, misclassification of waste as second-hand goods, absence of a binding enforcement mechanism), see for example the reports of the Basel Action Network and of INTERPOL on illegal waste trafficking. To be verified. ↩

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