

Canada - U.S.A. Agreement

Agreement Between the Government of Canada and the Government of the United States of America Concerning the Transboundary Movement of Hazardous Waste (consolidated text)

Note: This is a consolidated text of the 1986 Agreement and its 1992 Amendment for public use only, and does not constitute an "official" text.

The Government of Canada (Canada), and the Government of the United States of America (the United States), hereinafter called "The Parties":

Recognizing that severe health and environmental damage may result from the improper treatment, storage, and disposal of hazardous waste and other waste;

Seeking to ensure that the treatment, storage, and disposal of hazardous waste and other waste are conducted so as to reduce the risks to public health, property and environmental quality;

Recognizing that the close trading relationship and the long common border between the United States and Canada engender opportunities for a generator of hazardous waste and other waste to benefit from using the nearest appropriate disposal facility, which may involve the transboundary shipment of hazardous waste and other waste;

Recognizing further that the most effective and efficient means of achieving environmentally sound management procedures for hazardous waste crossing the United States-Canada border is through cooperative efforts and coordinated regulatory schemes;

Believing that a bilateral agreement is needed to facilitate the control of transboundary shipments of hazardous waste and other waste between the United States and Canada;

Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which asserts that states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction;

Taking into account Organization for Economic Co-operation and Development (OECD) Council Decisions and Recommendations on transfrontier movements of hazardous wastes, the United Nations Environment Program Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Waste, and resolutions of the London Dumping Convention,

Have agreed as follows:

Article 1 - Definitions

For the purposes of this Agreement:

(a) Designated Authority means, in the case of the US Environmental Protection Agency (US EPA) and, in the case of Canada, the Department of the Environment.

(b) Hazardous Waste means with respect to Canada, hazardous waste, and with respect to the United States, hazardous waste subject to a manifest requirement in the United States, as defined by their respective national legislations and implementing regulations.

(c) Country of Export means the country from which the shipment of hazardous waste originated.

(d) Country of Import means the country to which hazardous waste and other waste is sent for the purpose of treatment, storage (with the exception of short-term storage incidental to transportation) or disposal.

(e) Country of Transit means the country which is neither the country of export nor the country of import, through whose land territory or internal waters hazardous waste and other waste is transported, or in whose ports such waste is unloaded for further transportation.

(f) Consignee means the treatment, storage (with the exception of short-term storage incidental to transportation) or disposal facility in the country of import and the name of the person operating the facility.

(g) Exporter means, in the case of the United States, the person defined as exporter, and in the case of Canada, the person defined as consignor, under their respective national laws and regulations governing hazardous waste and other waste.

(h) Other Waste means Municipal Solid Waste (MSW) that is sent for final disposal or for incineration with energy recovery, and residues arising from the incineration of such waste, as defined by the Parties' respective national legislation and implementing regulations, but excluding waste covered under paragraph (b) of this Article.

Article 2 - General Obligation

The parties shall permit the export, import, and transit of hazardous waste and other waste across their common border for treatment, storage, or disposal pursuant to the terms of their domestic laws, regulations and administrative practices, and the provisions of this Agreement.

Article 3 - Notification to the Importing Country

(a) The designated authority of the country of export shall notify the designated authority of the country of import of proposed transboundary shipments of hazardous waste and other waste.

(b) The notice referred to in paragraph (a) of this article may cover an individual shipment or a series of shipments extending over a twelve month or lesser period and shall contain the following information:

(i) The exporter's name, address and telephone number, and if required in the country of export, the identification number.

(ii) for each hazardous waste and other waste type and for each consignee:

1. A description of the hazardous waste and other waste to be exported, as identified by the waste identification number, the classification and the shipping name as required on the manifest in the country of export;

2. The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;
 3. The estimated total quantity of the hazardous waste and other waste in units as specified by the manifest required in the country of export;
 4. The point of entry into the country of import;
 5. The name and address of the transporter(s) and the means of transportation, such as the mode of transportation (air, highway, rail, water, etc.) and type(s) of container (drums, boxes, tanks, etc.);
 6. A description of the manner in which the waste will be treated, stored or disposed of in the importing country;
 7. The name and site address of the consignee;
 8. An approximate date of the first shipment to each consignee, if available.
- (c) The designated authority of the country of import shall have 30 days from the date of receipt of the notice provided pursuant to the date of receipt of the notice provided pursuant to paragraphs (a) and (b) of this article to respond to such notice, indicating its consent (conditional or not) or its objection to the export. Such response will be transmitted to the designated authority of the country of export. The date of receipt of the notice will be identified in an acknowledgement of receipt made immediately by the designated authority of the country of import to the country of export.
- (d) If no response is received by the designated authority of the country of export within the 30 day period referred to in paragraph (c) of this article, the country of import shall be considered as having no objection to the export of hazardous waste and other waste described in the notice and the export may take place conditional upon the persons importing the hazardous waste and other waste complying with all the applicable laws of the country of import.
- (e) The country of import shall have the right to amend the terms of the proposed shipment(s) as described in the notice.
- (f) The consent of the country of import, whether express, tacit, or conditional, provided pursuant to paragraphs (c) and (d) of this article, may be withdrawn or modified for good cause. The Parties will withdraw or modify such consent insofar as possible at the most appropriate time for the persons concerned.
- (g) For the purposes of this Article and Article 5, manifest-related requirements may, with respect to other waste, be substituted by alternative tracking requirements.

Article 4 - Notification to the Transit Country

- (a) The designated authority of the country of export shall notify the designated authority of the country of transit of the proposed shipment of hazardous waste and other waste at least 7 days prior to the date of the shipment. The notice shall include the information specified in paragraph (b) of Article 3, with the following exceptions:
- (i) The points of entry into and departure from the country of transit shall be provided in lieu of the entry point(s) into the country of import; and
 - (ii) A description of the approximate length of time the hazardous waste and other waste will remain in the country of transit and the nature of its handling while there shall be submitted instead of a description of the treatment, storage, or disposal of the waste in the country of import.

Article 5 - Cooperative Efforts

1. The Parties will cooperate to ensure, to the extent possible, that all transboundary shipments of hazardous waste and other waste comply with the manifest requirements of both countries.

2.The Parties will cooperate in monitoring and spot-checking transboundary shipments of hazardous waste and other waste to ensure, to the extent possible, that such shipments conform to the requirements of the applicable legislation and of this Agreement.

3.To the extent any implementing laws and regulations are necessary to comply with this Agreement, the Parties will act expeditiously to issue such regulations consistent with domestic law. Pending such issuance, the Parties will make best efforts to provide notification in accordance with this Agreement where current regulatory authority is insufficient. The Parties will provide each other with a diplomatic note upon the issuance and the coming into effect of any such laws and regulations.

Article 6 - Readmission of Exports

The country of export shall readmit any shipment of hazardous waste and other waste that may be returned by the country of import or transit.

Article 7 - Enforcement

The Parties shall ensure, to the extent possible, that within their respective jurisdictions, their domestic laws and regulations are enforced with respect to the transportation, storage, treatment and disposal of transboundary shipments of hazardous waste and other waste.

Article 8 - Protection of Confidential Information

If the provision of technical information pursuant to articles 3 and 4 would require the disclosure of information covered by agreement(s) of confidentiality between a Party and an exporter, the country of export shall make every effort to obtain the consent of the concerned person for the purpose of conveying any such information to the country of import or transit. The country of import or transit shall make every effort to protect the confidentiality of such information conveyed.

Article 9 - Insurance

The Parties may require, as a condition of entry, that any transboundary movement of hazardous waste and other waste be covered by insurance or other financial guarantee in respect to damage to third parties caused during the entire movement of hazardous waste and other waste, including loading and unloading.

Article 10 - Effects on International Agreements

Nothing in this Agreement shall be deemed to diminish the obligations of the Parties with respect to disposal of hazardous waste and other waste at sea contained in the 1972 London Dumping Convention.

Article 11 - Domestic Law

The provisions of this Agreement shall be subject to the applicable laws and regulations of the Parties.

Article 12 - Amendment

This Agreement may be amended by mutual written consent of the Parties or their authorized representatives.

Article 13 - Entry into Force

This Agreement shall enter into force on November 8, 1986 and continue in force for five years. It will automatically be renewed for additional five year periods unless either Party gives written notice of termination to the other at least three months prior to the expiration of any five year period. In any five year period, this Agreement may be terminated upon one year written notice given by one Party to the other.

In witness where of, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Ottawa, in duplicate, this 28th day of October, 1986, in the English and French languages, both texts being equally authentic.