SUPREME AUDIT OFFICE
Czech Republic

NAJVYŠŠÍ KONTROLNÝ ÚRAD SLOVENSKEJ REPUBLIKY

JOINT FINAL REPORT
ON COORDINATED AUDITS
OF THE STATE FUNDS MANAGEMENT AND PERFORMANCE OF INTERNATIONAL OBLIGATIONS IN HAZARDOUS WASTES TREATMENT
(BASEL CONVENTION)

Contents:

A. Introduction

The Czech Republic and the Slovak Republic share a part of the state border. Both countries experience similar issues related to transboundary movements of hazardous wastes and their disposal, at present mainly illegal import of wastes from neighbouring countries. The Supreme Audit Office, Czech Republic (SAO, CR) and the Supreme Audit Office of the Slovak Republic (SAO SR) agreed to carry out coordinated audits in order to learn about the performance of international obligations in the management of hazardous wastes, operation and scope of exchange of information among the signataries to the Basel Convention, a system of financing of measures aimed at improving the environment, and the level of international cooperation. The audits were performed in accordance with intentions of the work plan of the EUROSAI Working Group on Environmental Auditing for 2002-2005.

The Final Report on the audits will be presented at international level and on the web pages of both supreme audit institutions and the EUROSAI and INTOSAI Working Groups on Environmental Auditing.

The Joint Report has been prepared upon the results of the following audits:

State Funds Management and Performance of International Obligations in Hazardous Wastes Treatment (Basel Convention)
(report on the result of the audit upon authorization No. 1266/05 prepared by SAO SR)

and

State Funds Earmarked for the Management of Dangerous Wastes
(audit report on audit No. 05/28 performed by SAO, CR).

Subject of Coordinated Audits:

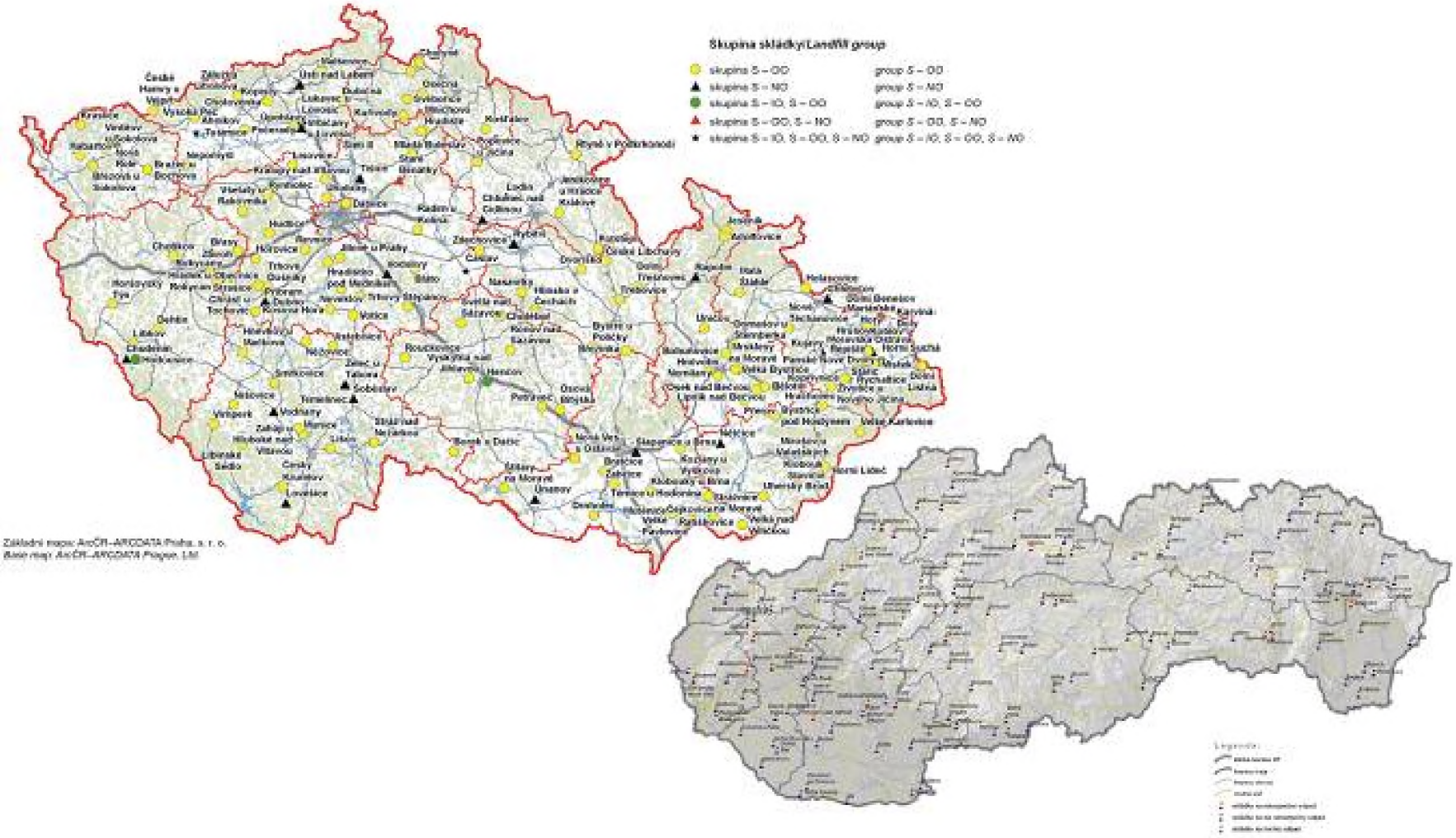
Both audit institutions carried out audits within their powers aimed at the management of hazardous wastes and the implementation of a system of financing of measures for their disposal. The audits resulted in an evaluation of cooperation in the field of transboundary transport and disposal of wastes.

Objectives of Coordinated Audits:

The main objective was to assess implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. Besides, the management of state funds purposefully allocated for the disposal of hazardous wastes was also audited.

Audited Period:

The years 2003 and 2004 formed a joint audited period. Besides, SAO CR also audited the year 2002. In case of identified factual inconsistencies, both audit institutions also audited preceding and following periods.



[1] OO – other wastes; NO – hazardous wastes; IO – inert wastes.

Audited Entities:

SAO, CR performed an audit of the following entities:

- Ministry of Environment (MoE CR)[2];
- Czech Environmental Inspectorate (CEI)[3];
- State Environmental Fund of the Czech Republic (SEF CR)[4];
- Selected tax offices (TOs)[5];
- Selected producers of hazardous wastes and landfill operators (disposers);
- Selected beneficiaries of financial subsidies from SEF CR.

SAO SR performed an audit of the following entities:

- Ministry of Environment of the Slovak Republic (MoE SR)[6];
- Slovak Environmental Inspectorate (SEI)[7];
- Environmental Fund (the Fund)[8];
- Selected regional environmental authorities (REAs)[9];
- Selected beneficiaries of funds from MoE SR in the field of waste management, focused on hazardous wastes.

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[2] It is a supreme supervisory body over environmental issues; it is a central state administration body among others for assessing environmental impacts and consequences of activities and the pertinent authority for transboundary transport of wastes;

[3] It is a state administration expert body; it controls how provisions of the Waste Act are complied with; it imposes fines and remedial measures for failure to comply with the provisions; it is entitled to audit documents of the waste producer (generator), notifier (who submits a notification of transboundary transport of wastes), wastes disposer and to perform audits at border crossings; however, it does not have powers to control wastes in the course of their transport;

[4] It is a major supplementary funding source that supports environmental protection and improvement among others in the field of waste management;

[5] They are in charge of recovering charges and fines imposed pursuant to the Waste Act;

[6] It is a central state administration body in charge of waste management, which mainly ensures compliance with granting consents related to the management of hazardous wastes and their disposal in the field of hazardous wastes, meeting obligations in the transport of hazardous wastes, financing of transboundary transport, meeting obligations in the management of hazardous wastes; besides, it also plays the role of a national supervisory body in waste management and imposition of fines for breaching obligations;

[7] It is a national supervisory body in waste management; it imposes fines and decides contentious cases whether goods undergoing transboundary transport represents waste;

[8] It was established on 1/1/2005 to implement state aid for environmental care including waste management;

[9] They are national supervisory bodies in waste management and state administration bodies in waste management that are in regional powers; among others they grant consent to the transport of hazardous wastes exceeding the territorial jurisdiction of a district environmental authority and consent to the transport of hazardous wastes exceeding the territory of a region.

B. Starting-points Governing International Cooperation on the Wastes Management

Cooperation between the Czech and Slovak Republic in the field of management of wastes follows in particular:

the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal that was signed on 22/3/1989 (Basel Convention). The Convention became valid for the Czech and Slovak Federal Republic on 5/5/1992. The Czech Republic (CR) and Slovak Republic (SR), being successor states of the Czech and Slovak Federal Republic, have been bound by the Basel Convention with effect since 1/1/1993. In the Czech Republic the Convention was published in the Collection of Laws under No. 100/1994 and in the Slovak Republic in the Collection of Laws under No. 132/2000. The Basel Convention was implemented in the CR and SR by the Waste Act.

- The Basel Convention obliges the parties to the Convention to minimize the occurrence of hazardous wastes with regard to their amount and potential risk. The Basel Convention aims in particular at minimizing transboundary movements of hazardous wastes and other wastes that are governed by the Convention in accordance with procedures of environmentally sound management of these wastes.
- An amendment to the Basel Convention was adopted at a conference of the parties to the Convention in 1995. The amendment prohibits the export of hazardous wastes from member states of the Organization for Economic Cooperation and Development (OECD) outside these states. The Czech and Slovak Republics also ratified this amendment.
- Drawing on the conclusions of the 1st conference of the parties to the Convention in 1995, a Regional Centre of the Basel Convention (RCBC) was established in Bratislava for training and technology transfers in Central and Eastern Europe. A total of 17 countries of the region were in the powers of RCBC, namely: Albania, Bosnia and Herzegovina, Bulgaria, the CR, Croatia, Estonia, Hungary, Lithuania, Latvia, Macedonia, Moldavia, Poland, Serbia and Montenegro, Romania, Slovenia, Slovakia and Ukraine. The CR is a member of an advisory body of the Centre. RCBC held 12 workshops aimed at various issues of the management of hazardous wastes and their transboundary movements. The last workshop was held in Průhonice from 15 to 17 March 2004 and its main topic was strengthening of cooperation on the basis of international conventions, aimed at the issue of chemical substances and hazardous wastes.
- Rules set forth in the Basel Convention are implemented in transboundary transport of wastes both in the CR and SR. Before the accession to the EU the import, export and transit movements of wastes in both countries followed, besides national legislation, OECD Council Decision C(92)39FINAL on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations. Since the accession to the EU (in May 2004) the CR and SR have been fully bound by Council Regulation (EEC) No. 259/93 on the supervision and control of shipments of waste within, into and out of the European Community (EEC Council Regulation), by which the EU implemented the Basel Convention.
- The Ministry of Environment of the CR (MoE CR) and the Ministry of Environment of the SR (MoE SR) act as competent authorities of the Basel Convention (the state administration bodies designated by a party to the Convention) for transboundary transport of wastes, i.e. transboundary import, export and transit.
- In the CR the role of a focal point of the Basel Convention performs the MoE CR and in the SR it is the Slovak Environmental Agency (SEA). The focal point provides information about the state of waste management to pertinent units of the European Commission and bodies of international conventions and reports in the field of waste management in the required scope and intervals.
- Joint audits of the CR and SR and neighbouring countries are organized within the European IMPEL network (Accession Countries Network for the Implementation and Enforcement of Environmental Law) in transboundary transport of wastes, aimed at helping to disclose its illegal transport. Exchange of information on matters of illegal transboundary transport has been initiated. This initiative may be illustrated by a meeting of waste management inspectors held in Bratislava in March 2006.

C. Objectives and Principles of Waste Management in Both Countries

Principles of waste management are similar in both countries, which came from historic grounds when both countries had originally the same legislation and set conditions, as well as the same date of accession to the EU and transposition of EU law related to it. Prevention of the occurrence and reduction of wastes generation, their maximum recovery and minimization of negative impacts on human health and the environment serve as a strategic aim in waste management.

Objectives and principles of waste management of the Czech Republic were published in Government Decree No. 197/2003 Coll., which makes provision with respect to a Waste Management Plan of the Czech Republic. The main objectives set forth in the mandatory part of the Waste Management Plan of the Czech Republic in the field of hazardous wastes (HW) concerns for instance a reduction in its generation by 20% by 2010 in comparison to the year 2000. Act No. 185/2001 Coll., which makes provision with respect to wastes, as amended by some other legal regulations (Waste Act) and related regulations set forth rules for the prevention of generation of wastes and for their management as well as rights and duties of persons active in waste management and powers of public administration bodies.

The main objectives of waste management of the Slovak Republic were set forth in the Waste Management Programme of the Slovak Republic (WMP SR) by the year 2005, which was adopted by the Slovak government on 27 February2002. WMP SR was prepared in relation to Act No. 223/2001, as amended, which makes provision with respect to wastes (Waste Act), which was in accordance with the transposition of EU legal regulations taking place at that time and which contained a description of the up-to-date state of waste management, its management strategy, binding and informative parts and a budget.

Landfill of Hazardous Wastes (Lagoon)

D. Results of Audits Carried out by SAO SR and SAO, CR

1. Compliance with the Basel Convention in the Field of Transboundary Transport of Wastes

Rules set forth in the Basel Convention are applied in transboundary transport of wastes both in the CR and SR.

Pursuant to the provision of Article 9 (5) of the Basel Convention, each party to the Convention shall introduce its own national (domestic) legislation to prevent and punish illegal traffic. The parties shall cooperate with a view to achieving objects of this Article.

Pursuant to Article 13 of the Basel Convention, all Parties to the Basel Convention shall transmit through the Secretariat a report on the previous calendar year before the end of each calendar year. Both the CR and SR have difficulties obtaining information related to specific management of wastes in other countries that are Parties to the Convention, both countries get information mainly through direct negotiations with competent authorities of the other countries. Comprehensive information for all counties may be obtained from the Secretariat of the Basel Convention only after its comprehensive processing and evaluation. This means that the information is available after a considerable lapse of time.

MoE CR and MoE SR act as the pertinent administrative authorities for transboundary transport of wastes in the field of the import of wastes. Communication is influenced by the fact that in some Parties to the Basel Convention the pertinent administrative authority for transboundary transport of wastes is not a single authority.

If illegal transport of wastes was ascertained, for which a foreign exporter was responsible, the ministries (MoEs) negotiated with pertinent competent authorities of the country of origin of wastes about their return. If a domestic wastes importer (Czech or Slovak) was responsible, the relevant ministries (MoEs) imposed on it the duty to dispose of wastes in its own country. In cases when direct responsibility was not ascertained, MoEs acted as a competent authority to negotiate with a foreign authority on how to dispose of the waste. This took place for instance in the case of illegal import of wastes into the CR in 2005.

Data from reports of focal points of the CR and SR provided to the Secretariat of the Basel Convention

(in tonnes)

Year		2000	2001	2002	2003	2004
Import	CR	1 716	1 965	2 186	1 199	*)
	SR	491	598	1 070	3 841	681
Export	CR	1 956	1 741	1 258	2 868	*)
	SR	326	333	753	2 232	2 482

Note:
*) By the end of this audit the focal point of the CR had failed to send the information for the year 2004 to the Secretariat of the Basel Convention

The feedback including a flow of up-to-date information and operative cooperation with the Secretariat of the Basel Convention is not sufficient for the existing needs of the Parties to the Convention.

Following facts were established from the audit performed by SAO, CR:

The CR did not submit a report for 2004 pursuant to Article 13 of the Basel Convention before the audit was completed.

Notifications of planned transboundary transport of wastes (import, export, transit) were submitted by the individual notifiers to MoE CR, which subsequently issued a decision on its consent, disagreement or objections.

The number of applications and issued consents to the import of wastes is descending, but the number of applications and issued consents to the export and transit of wastes is rising.

Consents of MoE CR to the import, export and transit of wastes pursuant to the Basel Convention

Consents of MoE CR pursuant to the Basel Convention		**2002**		**2003**		**2004**		**Total**	
		Number		Number		Number		Number	
		Applications	Consents	Applications	Consents	Applications	Consents	Applications	Consents
Import	Total	77	68	44	40	29	17	150	125
	from SR	10	10	10	10	2	2	22	22
Export	Total	29	24	25	22	73	49	127	95
	to SR	2	1	1	1	8	4	11	6
Transit	Total	12	8	9	7	25	21	46	36
	through SR	0	0	0	0	0	0	0	0

Note: 1) Prepared out of documents of MoE CR;

2) Consents to the import, export and transit given in the table include all wastes monitored by MoE CR pursuant to the Basel Convention.

Following facts were established from the audit performed by SAO SR:

Notifications of planned transboundary transport of wastes were submitted by the individual notifiers to MoE SR, which subsequently issued a decision on its consent, disagreement or objections.

In 2003 MoE SR granted a total of 67 permits for the **import of wastes**. Two out of these permits in the volume of 1,300 tonnes were for hazardous wastes. In one case the permit involved import of wastes from the CR. It concerned non-chlorinated mineral motor, gear and grease oils in the volume of 1,199 tonnes of hazardous wastes imported for the purpose of recovery.

In relation to the coming into force of the Council Regulation (EEC), the permitting duty of MoE SR changed in May 2004, which was reflected in a significant drop in the number of issued decisions. The above duty no longer applied to several types of wastes, which had originally been subject to a permit of MoE SR and which could since then move freely across national borders. In 2004 three permits were granted for the import of wastes in the volume of 4,300 tonnes, of which in one case hazardous wastes in the volume of 300 tonnes were imported for the purpose of recovery, in the remaining two cases the permits involved other wastes.

MoE SR permitted the **export of wastes** only in those cases when facilities for the management of the pertinent waste did not exist in the SR or when it was not possible to ensure safe management of the relevant waste. In 2003 MoE SR issued a total of 16 permits for the export of wastes in the volume of 7,310 tonnes, two of these involved hazardous wastes. In 2004 a total of 11 consents were issued in the volume of 3,969 tonnes for the export of wastes for their recovery. Nine cases in the volume of 3,589 tonnes involved hazardous wastes and two cases other wastes. Shortcomings in compliance with set conditions for the export of wastes were established in two cases when companies failed to meet one of the set conditions, namely they failed to notify MoE SR of the actual amount of exported hazardous wastes. In 2004 a total of 1,321 tonnes of hazardous wastes were exported from the SR.

In 2003 MoE SR issued a total of 21 permits for the **transit of wastes** in the volume of 119,329 tonnes. As part of these transits, the CR was an exporter in seven cases and an importer in three cases. In 2003 transit of wastes across the territory of the SR was performed from nine countries into eight countries. Until 30 April 2004 MoE SR granted

consents to the transit of wastes across the territory of the SR pursuant to the Waste Act. Since 1 May 2004 it has granted consents to the transit of wastes pursuant to the Council Regulation (EEC). In 2004 transit movements across the territory of the SR were performed from five countries (Hungary, Ukraine, Italy, the CR and Germany) into six countries (the CR, Germany, Sweden, Hungary, Ukraine, and Serbia and Montenegro).

1.1. Audit of Transboundary Transport of Wastes

The import of wastes into the CR and SR for disposal is prohibited and it is subject to exceptions. No wastes designated for disposal were legally imported in the audited period.

Pursuant to valid legislation, CEI and SEI are not entitled to inspect products. In practice, however, there are numerous entities that declare waste as a product. Subsequently, it cannot be inspected, as CEI and SEI may only inspect the management of wastes by legal entities and individuals authorized to do business.

Since the accession of the CR and SR to the EU, transport of wastes into a country may be permitted for the purpose of their recovery by a procedure and under terms and conditions set forth in the Council Regulation (EEC), which are implemented in the Waste Act. The import of wastes is regulated through a distinction between recovery and incineration as one type of disposal.

Imported wastes have to be recovered by a Czech or a Slovak importer under terms and conditions stipulated by the relevant waste legislation. For transboundary transport of wastes from EU Member States into waste incinerating plants in the CR or SR it is therefore crucial to determine whether incineration of wastes in waste incinerating plants represents their disposal or whether incineration of wastes may be regarded as recovery.

In the CR a customs body[10] decides on the stopping, stoppage or discontinuation of transport of wastes. When in doubt whether conditions for discontinuation of transport were met, customs bodies request expert assistance of CEI. If a control body establishes that waste is transported although it has not been declared, it files a motion with a regional authority, which is the only body to decide the contentious case whether it is waste. CEI may therefore open administrative proceedings to impose a fine in such cases only upon a decision of the regional authority.

In the audited period MoE CR received four notifications of planned transboundary transport of wastes into waste incinerating plants, of which in three cases it issued a decision on an objection and in one case transport was dismissed (by a decision of the Minister of Environment). In the latter case the notifier filed an appeal against the decision, but the Minister of Environment dismissed it. The notifier subsequently filed a petition to review the administrative decision. Before SAO completed its audit, court proceedings had not been closed yet. The court decision upon which an interpretation of "disposal of wastes" and "recovery of wastes" may be applied will be crucial for the import of wastes into the CR for recovery.

In the SR customs bodies in their capacity as state administration bodies do not have powers in waste management and control of transboundary transport of wastes. SEI does not have sufficient capacities to conduct inspections directly at border crossings. Hence, a rising number of illegal transport of wastes occurs in the SR.

In conjunction with the performance of tasks ensuing from the Basel Convention, SEI performed four inspections of transboundary transport of wastes in 2004, of which one inspection involved an importer and three inspections exporters of wastes. One fine was imposed on grounds of breach of the Waste Act.

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[10] Customs bodies serve as a control body in charge of control of wastes in the course of their transport. Customs bodies use mobile groups entitled to stop vehicles, control documents and load and in the case of illegal transport of wastes may order discontinuation of transport and stoppage of the vehicle.

The import of wastes into the CR and SR for disposal is prohibited and it is subject to exceptions. Due to ambiguous legislation there are numerous entities that declare waste as a product. With the current state of legislation these entities cannot be controlled.

Landfill of Illegally Imported Wastes

1.2. Financial Guarantees and Bonds pursuant to the Waste Act

In the CR MoE CR determines the amount of financial guarantees and in the SR the amount of a bond upon examining costs of transboundary transport and disposal or recovery of wastes (in the SR the amount stands at one and a half multiple of these costs).

In the SR the notifier of transport deposits the security deposit with a bank at least three days before transport takes place by tying the money to MoE SR for an indefinite period of time. In one case MoE SR failed to comply with the set procedure in accepting the security deposit, as it accepted a confirmation presented by the notifier of transport of tying the security deposit until a specific date, which was not in accordance with the statutory text of the Waste Act, i.e. that the money shall be tied for an indefinite period of time.

In the CR a customs authority may, besides financial guarantees deposited by a notifier, impose a bond in an amount ranging between CZK 10,000 and CZK 50,000 if regulations pertaining to the transport of wastes have been breached.

In the first three months of 2005 customs authorities imposed seven bonds for illegal transport of wastes. However, there was no valid legislation governing further management of deposited bonds and that is why CEI did not open administrative proceedings to impose a fine in these cases. Deposited bonds were eventually returned to transporters including interest despite the fact that transboundary waste got into the CR by illegal transport or at variance with a permit.

Penalization of illegal transport of wastes across the CR through bonds is ineffective due to insufficient legal regulations.

2. Payment for Depositing Wastes into Landfills

In the CR a waste producer is bound to pay charges for depositing wastes into landfills; the charges should serve as a financial instrument for reducing the generation of wastes (in particular hazardous ones) and promote their recovery. When hazardous wastes are deposited into a landfill, the charge contains two components, a basic component for the actual deposition of wastes and a risk component. A landfill operator collects the charge from waste producers when wastes are deposited into the landfill. The basic component of the charge forms an income of a municipality in whose land registry the landfill is located. The risk component is an income of SEF CR. Pursuant to the Waste Act the risk component of the charge is not paid to SEF CR if the waste is used for technical safeguarding of a landfill (TSoL).

Pursuant to the Waste Act the amount of the risk component of the charge for the years 2002, 2003, and 2004 was at CZK 2,000/tonne and was increased to CZK 2,500/tonne for the period of 2005 to 2006.

Between 2002 and 2004 the total income of SEF CR from the risk component of charges for depositing hazardous wastes into landfills and from fines for breaching obligations stipulated by the Waste Act was **CZK 378,432,000**.

Comprehensive records prepared and maintained by MoE CR serve as a source of information about the amount of charged wastes deposited into landfills. The amount of reported deposited hazardous wastes according to the comprehensive records is influenced by the total amount of hazardous wastes reported as technological material for technical safeguarding of a landfill, for which the charge is not collected. According to the comprehensive records, the amount of hazardous wastes used for technical safeguarding of a landfill between 2002 and 2004 was 474,000 tonnes, i.e. 46% of the total amount of hazardous wastes accepted into landfills. Operators of landfills of hazardous wastes used shortcomings in legislation, which did not set forth a maximum amount of technological material for safeguarding a landfill. In some cases operators reported over 90% of deposited waste as technical safeguarding of a landfill.

In order to improve this situation, MoE stipulated in 2005 that the amount of technological material for technical safeguarding of a landfill may be a maximum of 25% of the volume of all wastes deposited in a landfill each calendar year. Before the audit was completed the legislative amendment was not reflected yet in approved operating guidelines of audited operators of hazardous wastes landfills.

Management of wastes in the CR

Year	Wastes						
	Total	Hazardous wastes		Hazardous wastes accepted by a landfill		Hazardous wastes deposited in a landfill	
	thousands of tonnes	thousands of tonnes	%	thousands of tonnes	%	thousands of tonnes	%
2002	31 833	1 754	6	297	17	119	40
2003	37 554	2 037	5	347	17	188	54
2004	39 269	2 546	6	377	15	240	64
Total	**108 656**	**6 337**	**6**	**1 021**	**16**	**547**	**54**

Source: Data from comprehensive records of MoE.
Note: The remaining part of hazardous wastes was used for technical safeguarding of a landfill.

The reported amount of hazardous wastes is influenced also by the fact that records about the risk component of charges maintained by landfill operators are imprecise.

The total amount of collected risk charges should be equal to the total amount of hazardous wastes deposited in landfills according to comprehensive records multiplied by the amount of the risk charge for depositing the wastes into the landfill. However, this is actually not the case and the volume of money paid to SEF CR between 2002 and 2004 is lower by over CZK 748,285,000, i.e. by more than 68%.

Difference in charges paid to SEF CR and calculated charges (in CZK thousand)

Year	Calculated risk charge*)	Charge paid to SEF CR	Difference = unpaid risk charge
2002	238 087	112 972	125 115
2003	375 437	106 399	269 038
2004	480 402	126 270	354 132
Total	**1 093 926**	**345 641**	**748 285**

Note: *) Amount of charged hazardous wastes (i.e. after deduction of technical safeguarding of a landfill) according to comprehensive records multiplied by the amount of the risk charge of CZK 2,000/tonne.

The system of collection and payment of charges for depositing hazardous wastes into landfills is complicated, not transparent and not very effective.

Payment of Charges and Fines for Unpaid Charges

If a landfill operator has not paid the collected charge to a municipality or SEF CR within the set time limit, the regional authority that issued consent to the operation of the landfill imposes a duty to pay the charge by means of a decision upon a motion of the charge beneficiary, and time calculates the relevant fine at the same. Charges and fines are recovered by tax offices having jurisdiction with respect to the land registry where the landfill is located.

SEF CR does not have the right to check the payment of charges. CEI, municipal and regional authorities are entitled to this. However, municipal authorities do not have a sufficient financial incentive to check the payment of the risk component of the charge, as it is not their income unlike a fine from an unpaid charge, which forms their income.

Municipal and regional authorities having jurisdiction with respect to place did not either check the payment of charges at all or did so only to a minimum extent. CEI conducts only random checks of the payment of charges by landfill operators.

Landfill operators do not send reports on charges to the final beneficiary SEF CR; hence SEF CR does not file motions with regional authorities to issue a decision to pay the charge and therefore charges cannot be subsequently recovered.

In the SR charges for the deposition of wastes are paid by payers to landfill operators within the meaning of an Act on charges for deposition of wastes. Landfills of wastes represent the necessary facilities for the management of wastes. Deposition of wastes into landfills represents approximately 48% of the disposal of all wastes. At the end of 2004 a total of 165 landfills were operated in the SR, of which 13 were designated for the deposition of hazardous wastes.

Within the meaning of the Act, income from charges for the deposition of wastes into landfills forms an income of the municipality in whose land registry the landfill is located. Income of the Environmental Fund comprises only revenues from fines for late payment of charges for depositing wastes into a landfill.

SAO SR did not conduct an audit of landfill operators, as it did not have powers to do so pursuant to the SAO SR Act. It used only information provided by SEI, which performed a total of 27 inspections of landfill operators. They were focused on whether landfill operators met obligations ensuing mainly from the Waste Act and the Act on charges for deposition of wastes. In one case shortcomings were ascertained related to the payment of a charge for the deposition of wastes to a municipality.

3. Fines for Breach of Obligations in Waste Management

In the CR CEI imposes fines for breaching obligations set forth in the Waste Act on legal entities and individuals authorized to do business and may determine measures and time limits for remedy through a separate decision at the same time. SEF CR receives 50% of the revenues from fines and the municipality in whose land registry legal regulations were

breached receives the remaining 50%. If CEI imposes a fine on a municipality, the beneficiary of the whole fine is SEF CR.

CEI imposed fines for breaching individual provisions of the Waste Act at the lowest limit of the penalty range. The upper limits set forth in the Waste Act range between CZK 300,000 and CZK 10,000,000 (since May 2006 up to CZK 50,000,000).

The average amount of a fine imposed by CEI was only CZK 37,000. In appellate proceedings MoE CR even decreased the final amounts of fines. After an appeal was filed, the average amount of imposed fine was reduced from CZK 37,000 to CZK 34,000, i.e. a fine near the lowest level of the penalty range. According to a statement made by MoE CR the most common reasons for reducing fines was the fact that when determining the amount of fine, the first tier body had drawn on unreliably determined state of affairs and the appellate body thus found the fine unreasonably high.

Between 2002 and 2004 CEI imposed 1,910 fines pursuant to the Waste Act in the total amount of CZK 70,722,000. In this period a total of CZK 43,952,000 was credited to the CEI account. An audit of selected TOs showed that the success rate of recovering fines was 64%.

Landfill of Illegally Imported Wastes after Fire

Considering the relatively high number of cases when the Waste Act was breached and the low number of imposed fines, it is clear that the imposition of fines was not sufficiently effective as a penal instrument.

Vague legal regulations in the field of waste management and inaccurate definitions of terms often lead to frequent legislative amendments, leading to low effectiveness and high complexity of this legislation.

In the SR pertinent state administration bodies in charge of waste management impose fines pursuant to the Waste Act on legal entities and individuals authorized to do business according to gravity of the breach either up to SK 200,000, SK 500,000 or SK 5,000,000.

In 2003 state administration bodies in charge of waste management imposed fines for breaching obligations stipulated by the Act in the total amount of SK 6,129,000 and in 2004 in the amount of SK 7,899,000. Of this SEI imposed fines in the amount of 6,193,000 in 2004. In 2003 SEI imposed 18 fines for a breach of regulations pertaining to the management of hazardous wastes in the amount of SK 945,000; the highest imposed fine was SK 155,000. In 2004 SEI imposed 66 fines in the total amount of SK 2,162,000; the highest imposed fine was SK 130,000.

4. Financing Waste Management from State Funds

Between 2002 and 2004 the total expenditures for measures in waste management **in the CR** were CZK 1,453,458,000. Of this approximately 96% came from the funds of SEF CR and approximately 4% from the state budget.

Projects were funded from SEF CR as a part of programmes supporting restoration of old landfills, recovery and disposal of wastes and preparation of concepts related to the management of wastes.

Investment funds from the state budget were used to build an expert centre called the "Waste Management Centre". Non-investment funds from the state budget were used to prepare studies, reports and implementation programmes in conjunction with the Waste Management Plan of the Czech Republic and implementation of EC legislation.

In the SR subsidies from the state budget in the amount of SK 159,380,000 were provided for tackling issues of waste management and environmental load in 2003, of which SK 4,700,000 were allocated for hazardous wastes. In 2004 the amount was SK 85,131,000, of which only SK 2,000,000 were designated for hazardous wastes.

On 31 December 2002 the State Environmental Fund of the Slovak Republic was abolished. On 1 January 2005 an Environmental Fund was established, which provides funds through subsidies for tackling issues of hazardous wastes among others. In 2005 the Environmental Fund provided subsidies for waste management in the total amount of SK 75,400,000, of which SK 1,500,000 were earmarked for hazardous wastes.

Decontamination Area

E. Joint Conclusions and Recommendations

After customs controls were abolished at border crossings due to the accession to the EU, illegal import of wastes from neighbouring countries increased both in the SR and CR. In this context, intra-state controls of transboundary transport of wastes became crucially important. However, this situation was not sufficiently reflected in valid legislation in a flexible manner.

Pertinent state administration bodies (Slovak Environmental Inspectorate, Czech Environmental Inspectorate and customs bodies) lack sufficient powers to effectively prevent illegal transport of wastes.

With regard to the existing low effectiveness of fines, which are in practice imposed at the lowest level of the penalty range, there is a need to increase not only the upper limit, but also the lowest limit of fines.

Measures taken in waste management resulted neither in a decrease in the generation of hazardous wastes nor in an increase of their recovery and hence the amount of hazardous waste disposed of has not been reduced.

Vague legal regulations on waste management, which allow ambiguous interpretation, their frequent amendments, complexity and belatedness result in their low effectiveness.

F. Evaluation of Cooperation

By conducting coordinated audits, the supreme audit institutions - SAO SR and SAO, CR, met planned objectives set forth in the agreement between them signed on 12 September 2005.

The audits focused on the performance of international obligations related to the management of hazardous wastes, their disposal and transboundary transport in accordance with the Basel Convention.

The performance of obligations ensuing from the Basel Convention in the field of import, export and transit of wastes was compared.

The management of state funds in the field of management of hazardous wastes was assessed among others as concerns earmarking and utilization of subsidies from these funds to tackle waste management issues.

The coordinated audits showed certain differences in valid legislation of the CR and SR mainly as regards the obligation to pay charges when depositing wastes into landfills as well as the powers of individual administrative bodies.

The results of the audits helped both parties to operatively tackle issues related to the provision of control mechanisms by pertinent bodies in transboundary transport of wastes and to take further measures to improve the situation in the audited areas in both countries.

The coordinated audits proved the benefits of cooperation between the supreme audit institutions.

Signing the report at the meeting in Bojnice

SAO, CR:

Ing. Zdeněk B r a n d t

SAO SR:

Ing. Ján V a n č í k

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