

**Workshop of the Asian Network for Prevention of
Illegal Transboundary Movement of Hazardous Wastes
ISSUES PAPER**

January 28, 2008

1. Session I: Updates on implementing activities of the Basel Convention

Background

With the growing number of import and export of reusable goods and recyclables, it is important for each country to understand and share the information on the implementing activities of the Basel Convention to prevent illegal transboundary movement of waste.

Discussion

Each country is requested to make a 10-minutes up-to-dated report on implementing works focusing on the following items:

- a Import statistics under the Basel Convention (numbers of notification received, consented and denied, original country, type of waste, amounts etc.)
- b Export statistics under the Basel Convention (numbers of notification sent, consented and denied, destined country, type of waste, amount etc.)
- c Illegal import and export cases (including description of the environment and human health damages, if any)
- d Updates on the newly introduced regulations and the regulations under discussion
- e Other activities conducted in the year of 2007
- f Challenges and difficulties

Expected Outcome

Through the discussion, participants are expected to share the latest information on the implementation activities and difficulties faced by each country.

2. Session II: Criteria for “New”, “Second-hand” and “Waste”

Background

A "hazardous waste" controlled under the Basel Convention is a "waste" which possess "hazardous characteristic" by its definition (Article 1). A "waste" is defined as an object destined for disposal operation listed in Annex IV (Article 2), and "hazardous characteristic" is defined as Annex III (Article 1). The unique feature of this definition is that a "waste" is closely related with the "disposal operation" in the importing country.

Such definition can work when the exporter would apply for the notification in accordance with the Basel Convention because the applicants know how their wastes would be treated in the importing country. But when it comes to the situation outside of the Basel procedure, such as detecting illegal cases at the customs, the judgment of disposal operation is always accompanied with the difficulties. In case of a typical hazardous waste, such as hazardous sludge or chemicals, it may be possible to judge the designated disposal operation. However, different from those, some of used items, such as so-called e-wastes, are quite difficult to judge the disposal operation at a glance in many cases practically because most of them "can be used" with its economic value, while "direct re-use" is not considered as the disposal operation (Footnote of B1110 in the Annex IX).

To avoid the confusion, several Asian countries have established a regulation to control "second-hand" goods. Despite of these efforts, there still remains the discussion as for the definition between "new" and "second-hand".

This ambiguity on the definition causes challenges to prevent illegal shipment, both domestically and internationally, because not only customs officers but also importers and exporters have a difficulty in distinguishing whether the item is controlled or not by the law due to the lack of clear definition and criteria between new/second-hand and second-hand/waste.

Under such circumstances, only few of them are managed practically, and countless number of e-wastes is moving across the borders.

To tackle with this issue, e-waste regulations and their interpretations in Asian countries were collected through the previous workshops and the study. Some Asian countries already have criteria for distinguishing non-waste from

waste. For example, the Hong Kong SAR issued the advice for importers to clarify the controlled items, and they also presented a draft guideline to distinguish non-waste from waste in the previous workshop in 2005. At the international level, the Basel Convention partnership program on the Mobile Phone Partnership Initiative (MPPI) and the Partnership for Action on Computing Equipment Project (PACE), and EU had discussions on criteria for distinguishing waste.

It is important to share such information for more effective enforcement. In addition, given the precedent activities, the Asian countries need to discuss how to realistically deal with the abovementioned situation.

Discussion

To initiate the session, the Secretariat will give a presentation, including background, previous study on criteria, import and export flow in the Asian region, international activities on harmonized criteria, to understand current situation that:

- (1) there is a room as to the interpretation of definition of "waste" in the Basel Convention,
- (2) each Asian country has its original regulation and criteria,
- (3) more information on interpretation of waste is needed to prevent an illegal traffic,
- (4) each country can be an importing country as well as an "exporting" country of used EEE, and
- (5) international activities to harmonize the criteria, which might be too strict for some Asian countries but too weak for some Asian countries, by the guideline have started.

Then, as on-going activities, the latest European activities on criteria and a research project by the BCRC China will be explained. In addition, several countries will explain their progress on the development of criteria.

Based on the background information above, participants will discuss suitable measures and an appropriate direction for the Asian region, mainly;

- (1) How do we respond the gaps on the criteria of waste?
- (2) What are the possible coordinated actions against the gap?
- (3) How do we discuss toward international activities on common criteria, such as MPPI and PACE?

Expected Outcome

Through the discussion, participants are expected to:

- understand a gap of interpretation of waste that may cause an illegal shipment,
- share information on criteria of waste in the Asian countries,
- follow up the international activities on criteria of waste, and
- discuss suitable measures and an appropriate direction for the Asian region.

Session III: Good practices for the implementation of the Basel Convention

Background

About 20 years have passed since the Basel Convention became effective, the surroundings of the Basel Convention have dramatically changed, especially by the development of recycling industry and the high demands for natural resources and secondary materials.

It is important to build a sound material-cycle society and to improve resource productivity in each country as well as in East Asia as a whole. In order to establish an environmentally friendly and resource efficient society, developing a high quality recycling industry and sweeping off low quality or illegal recycling industry are essential.

Unfortunately, many Asian countries are facing the opposite situation in reality. Since waste generators and recyclers usually do not want to pay an additional fair cost to treat waste in an environmentally sound manner, they tend to choose a low-priced option, which is likely to cause damages to the environment and human health.

The problem is that those recyclers are becoming more cost competitive than legal recyclers at the same market by not paying a fair environmental cost, which may result in the formal recyclers' withdrawal like "Bad money drives out good". To create a healthy market in the country, from the viewpoint of environment authority, it is important to establish the regulation to manage the environment, and to enforce the regulation to ALL recyclers for a "level-playing field" where all recyclers pay for the necessary cost.

This is same as the case of international trade. In many Asian countries, regrettably, most of importers and exporters do not follow the Basel procedures, which consequently cause environmentally unsound treatment in their destined places. On the other hand, a few law-abiding companies would follow the Basel procedures in each country by paying adequate cost (both time and money), but they are threatened with extinction in the unfair market for the abovementioned reason.

It is quite important to prevent a "bad" trading and recyclers and secure "good" trading and recyclers for a sound waste management and the 3Rs (reduce, reuse and recycle) within each country and the Asian region as a

whole. When these efforts, in the context of full recognition for preventing illegal trade, are effectively made, the utilization of recyclable resources through international trade is considered as supplemental to domestic resource circulation in reducing environmental burden of waste and increasing resource efficiency.

Many countries have introduced and experienced various enforcement activities (e.g. tight border control, awareness raising, collaboration with customs, clarification of Basel procedure, informing the SBC etc.). Those enforcement activities should be widely and systematically shared with the Basel authorities for more effective enforcement and to promote the environmentally sound society in the Asian region.

Discussion

The Secretariat will give a background presentation at the beginning of the session to explain:

- (1) reasons why preventing illegal shipment and securing good recycler is essential to promote a sound material-cycle society, and
- (2) current situations that each country has its unique enforcement activities, which has not shared systematically yet.

Then, each country will explain enforcement activities in the country (e.g. collaborative works with customs, legislation, collecting and sharing information etc.).

Then, the participants will discuss the following issues;

- (1) What are other good practices to be shared?
- (2) What information do we need for more effective enforcement?
- (3) How do we share these good practices systematically?

Expected Outcome

Through the discussion, participants are expected to:

- understand the importance of enforcement activities for a sound material-cycle society,
- good practices for more effective enforcement, and
- make a priority on the field we need to share with.

3. Session IV: Future projects

Background

As the Asian Network now is in the 5th year of activity after its launch, there is a need for discussions regarding what activities should be conducted in future. Through the discussion, more organized and systematic works can be accomplished, and every participant can have common understanding about the future direction of the Network.

Discussion

For initiating the discussion, the secretariat will introduce the past activities of Asian Network. In addition, previous and ongoing activities by BCRC-SEA, IMPEL-TFS, UNEP/ROAP, Canada and Customs will be introduced.

The secretariat will summarize the projects which were proposed before the workshop and during the session by the member countries and observers, including but not limited to:

- (1) Research on criteria for new/second-hand and second-hand/waste,
- (2) Research on degree of the damage occurred during the shipping of goods
- (3) Research on traceability (Electronic manifest etc) for hazardous waste
- (4) Development of Basel implementation good practices
- (5) Corroboration works with other organizations

Participants will discuss the priorities and feasibilities of the Asian Network activities among the participating countries.

- (1) How do we consider the priorities and feasibilities to the proposed activities?
- (2) Are there any other activities we should conduct?
- (3) Which activities should we conduct, and how will we do?

Expected Outcome

Through the discussion, participants are expected to develop a draft plan of the Asian Network activities for the next few years.