

Summary of Questionnaire Survey for Asian Network Workshop in Cambodia

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Ministry of the Environment, Japan

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1. Takeback procedure

Definition and guideline of takeback

a. Japan

Definition of takeback is stipulated in “*the Law for the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes*”

Export case: Specified hazardous wastes, etc. are not properly exported, including the case where the export of specified hazardous wastes, etc. or the transportation or disposal in association with the export contravenes the provisions of this Law or the provisions of the Cabinet Order pursuant to the provision of Article 48, paragraph (3) of the Foreign Exchange and Foreign Trade Law;

Import case: Specified hazardous wastes, etc. are not properly imported, including the case where the import, transportation or disposal of specified hazardous wastes, etc. (excluding those that fall under wastes; hereinafter the same shall apply in paragraph (2) of the following Article and Article 16, paragraph (2)) contravenes the provisions of this Law or the provisions of the Cabinet Order pursuant to the provision of Article 52 of the Foreign Exchange and Foreign Trade Law

No guideline for takeback is developed.

b. Indonesia

Indonesia’s regulation clearly states the prohibition of the import of hazardous waste, so any hazardous wastes imported from other countries to Indonesia has to be re- exported. The relevant regulation is as follows;

1. Act No.32/2009 For the Environmental Protection,
2. Gov. Regulation No.18/1999 concerning The Hazardous Waste Management
3. Presidential decree No.61/1993 concerning The Ratification of The Basel Convention on The Control of Transboundary Movements of Hazardous Waste and Their Disposal

c. Malaysia

Malaysia always follows the procedure of the Basel Convention on the takeback case of hazardous wastes. The national law to support the Basel Convention requirement is provided under Section 34B of “*Environmental Quality Act, 1974*”.

Takeback guidance is provided in the above act.

d. Thailand

The relevant provision of takeback is stipulated in the Chapter VII “Overtime Goods” of “*the Customs*

Act, B.E. 2469 (1926)".

Section 61.

Goods remaining in the custody of Customs in any of the following manner shall be deemed to be overtime goods:

(1) imported goods which are hazardous goods of the types or categories specified by the Director-General under section 6 (6) for which the importer has not yet paid duty and taken such goods out of the Customs limits within the time period specified by the Director-General in the Government Gazette;

(snip)

(2) In proceeding with overtime goods under paragraph one, the Director-General shall have the power to order a competent official to destroy or to sell such goods by auction, or to order the importer or the agent of the importing vessel to re-export such goods, and if the importer or the agent of the importing vessel fails to comply, the Director-General shall have the power to order a competent official to destroy such overtime goods at the expense of the importer or the agent of the importing vessel, as the case may be.

The guidance of takeback is given in the relevant regulation of the following laws.

- Hazardous Substance Act B.E.2535
- The Enhancement and Conservation of the National Environmental Quality Act B.E.2535 (NEQA 1992)

e. EU

The European Waste shipment Regulation contains the requirements for take back procedures in EU countries (art 22-25)¹

IMPEL has developed a guideline for European countries². The guideline contains procedures for take back between European countries. A more practical handout is now in development.

Difficulty and challenges for takeback

Responses to the question regarding difficulty and challenges for takeback are as follows;

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:190:0001:0098:EN:PDF>

² <http://impel.tfs.eu/projects/manual-on-the-return-of-illegal-waste-shipments>

Table 1: Summary of difficulty and challenges for takeback

Items	# of responses	Respondent
Absence of importer and/or consignee (importer and/or consignee was dummy company, or changed the name)	2	ID, TH
Absence of exporter (exporter was dummy company, changed the name)	2	MY, TH
Lack of cooperation with competent authorities of the State of origin	1	ID
Lack of means for takeback (no reliable shipping companies, etc)	1	BN
Lack of finance for takeback	3	BN, ID, TH
Far distance to the State of origin (the State of origin is too far away from your country)	1	TH
No legal obligation for takeback (takeback was not ensured in the domestic law).	1	BN
Other response		
No national guidelines (the competent authority with related ministries always considers about appropriate takeback procedure at each case)	1	JP
Do not receive always the requests of countries of destination (When the return shipments are not strictly followed the responsible companies will ship the waste to another Asian or African country)	1	EU
Different opinion between countries. (According to European legislation the strictest procedure of the country of origin and destination is applicable. For transit countries it is often difficult to get the opinion of both countries)	1	EU

Responses to the question regarding “what happened to the waste if not returned to the State of origin?” are as follows;

Table 2: Summary of ways to deal with the wastes at issue if not returned to the State of origin

Items	# of responses	Respondent
Treated and/or disposed in environmentally sound way in your country	3	MY, TH, EU
Illegally dumped in your country	0	
Exported to the third country and treated/disposed in environmentally sound way	0	
No means for treatment/disposal and therefore still being stored	0	
Other responses		
Country of origin did not ratify Basel Convention and therefore did not have the obligation to take the waste back. However the country of origin assisted in the court procedure to get the disposal costs back from the responsible company.	1	EU

Case study

The following table summarizes the previous cases of the takeback in member country as wells as partner country/organization.

Table 3: Summary of the previous takeback cases

Respondent	Country involved in takeback	Type of wastes	Volume	The reason for takeback	Involvement and the role played by the government	Transporter of returned shipment	The responsible authority of takeback	Cot-payer	Monitoring
Indonesia	Indonesia⇒??	-	-	Categories as Hazardous waste – Prohibited to import to Indonesia	Categories as Hazardous waste – Prohibited to import to our country	The government sends a letter to notified illegal shipment to the competent authority of the state of origin and arranged takeback, etc.	Shipping company arranged by importer (Defined in the national law or regulation and discuss it with the custom department in Indonesia)	Importer	The custom Department, NGOs, MoE
Japan	China (Hong Kong SAR) ⇒Japan	Used CRT monitors	930 units	No prior notification was made.	On-Site Inspection was conducted after the shipment was taken back to Japan, pursuant to the article 16. The exporter was order to report all information to Ministry of the Environment and Ministry of Economy, Trade and Industry, pursuant to the article 15.	The original shipping company ordered by the government in the State of origin	Exporter (Defined in the national law)	Exporter	Conducted by Ministry of the Environment and Ministry of Economy, Trade and Industry
Japan	Malaysia ⇒ Japan	Personal computers	580 units	No prior notification was made.	On-Site Inspection was conducted after the shipment was taken back to Japan, pursuant to the article 16. The exporter was order to report all information to Ministry of the Environment and Ministry of Economy, Trade and Industry, pursuant to the article 15.	The original shipping company ordered by the government in the State of origin	Exporter (Defined in the national law)	Exporter	Conducted by Ministry of the Environment and Ministry of Economy, Trade and Industry
Japan	China (Hong Kong SAR) ⇒Japan	CRT monitors	900 units	Violation of the Waste Disposal Ordinance	On-Site Inspection was conducted after the shipment was taken back to Japan, pursuant to the article 16. The exporter was order to report all information to Ministry of the Environment and Ministry of Economy, Trade and Industry, pursuant to the article 15.	The original shipping company ordered by the government in the State of origin	Exporter (Defined in the national law)	Exporter	Conducted by Ministry of the Environment and Ministry of Economy, Trade and Industry
Thailand	Thailand ⇒United Kingdom	Mixed used batteries with used tires, part of used car and used engine	23.45 tons	None importer or receiver (Chapter VII Overtime Goods under the Customs Act, B.E. 2469)	The government notified illegal shipment to the competent authority of the state of origin and arranged take back	The shipping company arranged by government in the State of origin	The government in the State of origin *Defined in the following national laws 1. Customs Act, B.E. 2469 2. Hazardous Substance Act B.E.2535	Same as responsible authority (shipping company)	Involvement of national organizations for monitoring takeback
Thailand	Thailand ⇒Netherlands	Mixed waste with plastics scraps	17.7 tons	None importer or receiver (Chapter VII Overtime Goods under the Customs Act, B.E. 2469)	The government notified illegal shipment to the competent authority of the state of origin and arranged take back	The shipping company arranged by government in the State of origin	The government in the State of origin *Defined in the following national laws 1. Customs Act, B.E. 2469 2. Notification of Department of Industrial Works, "Re: Criteria for permission of importing plastics, either used or unused, and its scraps" (1996)	Same as responsible authority (shipping company)	Involvement of national organizations for monitoring takeback
Thailand	Thailand⇒Japan	E-waste and used pinball	46.2 tons	Waste / none importer or	The government notified illegal shipment to the competent authority of the state of	The shipping company arranged by government in the State of	The government in the State of origin	Same as responsible	Involvement of national organizations for

Respondent	Country involved in takeback	Type of wastes	Volume	The reason for takeback	Involvement and the role played by the government	Transporter of returned shipment	The responsible authority of takeback	Cot-payer	Monitoring
		game broods		receiver (Chapter VII Overtime Goods under the Customs Act, B.E. 2469)	origin and arranged take back	origin	*Defined in the following national laws 1. Customs Act, B.E. 2469 2. Notification of Department of Industrial Works, "Re: Criteria for permission of importing plastics, either used or	authority (shipping company)	monitoring takeback
IMPEL-TFS	Germany (illegal Shipment was discovered in the Netherlands)	Electronic and car shredder residues	20.000 kg	The waste was contaminated and not allowed for import in the country of destination (China)	Dutch government forced the company to return the waste and asked assistance of the country of origin.	Transport company arranged by exporter	State of origin (Decided through bilateral discussion with the government in the stat of origin)	exporter	Transport information was sent to authority of origin
IMPEL-TFS	Netherlands (illegal shipment discovered in Belgium)	CRT monitors	17.000 kg	Illegal shipment of hazardous wastes to non OECD country	Dutch government was responsible to take care that the waste was returned to the Netherlands.	Transport company arranged by the exporter	State or origin (Netherlands) (Decided through bilateral discussion with the government in the stat of origin)	exporter	Dutch authorities were informed about the shipping date by Belgium authorities and checked the transport at arrival in the Netherlands
IMPEL-TFS	Germany	Agricultural plastics	35,000 kg	Contaminated, not green listed	Dutch government identified one illegal container in Netherlands and discovered that 2 identical containers were shipped to Hong Kong SAR. After HKSAR authorities informed the receiver, this receiver refused the acceptance of the container. Dutch government contacted German authorities to force the exporter to take the waste back.	Shipping line arranged by exporter	Germany (Decided through bilateral discussion with the government in the stat of origin)	exporter	HKSAR authorities informed Dutch authorities about the details of the ship. The shipment was followed by tracking and tracing module on internet. After arrival the containers were blocked and released after the further transport to Germany was clear.

Possible future activity under the Asian Network

The responses to the questions regarding the possible future activities under the Asian Network in order to address the identified difficulty and challenge for takeback are summarized as follows;

Table 4: Summary of the possible future activities under the Asian Network

Possible activities under the Asian Network	Respondent
Training / workshop of the relevant authorities such as Customs	BN, MY
Information sharing, such as; <ul style="list-style-type: none"> o Takeback cases; o Takeback procedures; and o Good practices to appropriate takeback mechanism. 	JP
Establishment of hotline mechanism (or discussion web-board/forum) (the Asian Network can become a plat-home).	JP, TH
Determine same in interpretation of waste and non-waste between countries	TH
Network coordination among other Networks <ul style="list-style-type: none"> a. Multilateral Environmental Agreement Regional Enforcement Network (MEA-REN) b. Seaport Environmental Security Network, etc. 	TH
Develop a non complicated procedure to make cooperation between authorities	IMPEL
Develop a checklist for the authorities with their possibilities and rights to block containers, to force return shipments and to prevent claims and costs for the government.	IMPEL
Inform the country of origin when the return shipment starts and give them the details of the shipment.	IMPEL
Investigate what pressure methods can be used to force the responsible companies to return the waste themselves.	IMPEL
As long as the container is blocked, the company who booked the container has to pay rental costs and storage costs for the container to the shipping lines. If this company does not pay this bill, shipping lines have possibilities to block or refuse all other containers of this company. To prevent discussion with the shipping lines it is important to inform them in an early stage and to make clear that costs are for the shipper.	IMPEL

2. Risk profiling

Intelligence sharing

The following is summaries of the questions regarding risk profiling. The questionnaire asked participants about useful information that can be shared among members as well as customs in order to strengthen border control, and how the Asian Network can address the issues.

Table 5: Summary of information that can be useful for risk profiling

Type of information that can be shared	Respondent
Information of involved organizations (especially, company frequently involved in illegal shipment)	BN, MY, JP
Waste treatment facilities	BN
Country of origin	BN
Types of hazardous wastes	JP
Identification code, such as the Basel Convention Annex I, III, VIII and IV, HS code;	JP
Exporting ports and importing ports	JP
Final destinations	JP
Interpretation of waste as HS-code, tariff and statistic code	TH

Table 6: Summary of possible activity for risk profiling

Possible activity under the Asian Network	Respondent
Become a clearing house for risk profiling among the member countries.	JP
Contribute for Research and Development for import and export wastes or unusable materials <ul style="list-style-type: none"> ○ Identify type of waste and non-waste ○ Determine the appropriate analytical methods ○ Determine same HS-code, tariff and statistic code for each waste 	TH
Inform other countries about refused containers.	IMPEL-TFS

Typical HS code at high risk for deliberate disguised declaration

The following is summary of the typical HS code at high risk for deliberate disguised declaration.

Table 7: Summary of Typical HS code at high risk for deliberate disguised declaration

Respondent	Import / export	HS codes item at high risk for illegal TBM of hazardous wastes		Falsely exported hazardous wastes	Major destination of export	Typical loading condition
		HS codes	Declared items			
ID	Import	7204.	Metal Scrap	Batteries, metal scrap contaminated as hazardous waste	USA	Container
ID	Import	3915	Plastic scrap	medical waste or used chemical bottle, municipal solid waste	Europe	
ID	Import	4004	Rubber scrap	Used condoms	Europe	
JP	Export	8528	CRT monitors	Waste CRT monitors	Hong Kong, Vietnam, Malaysia	Secondhand and waste is mixed up. Declared products have no protective cover.
JP	Export	3915	Waste plastics	Waste plastics mixed with other wastes	Hong Kong, China,	Waste plastics were mixed with other wastes.
JP	Export	7204	Ferrous waste and scrap	Ferrous waste and scrap mixed with other wastes	China	Ferrous waste and scrap were mixed with other wastes.