

Questionnaire for Asian Network Workshop 2016

Objectives:

The following topics will be discussed during the Asian Network Workshop 2016:

- ✓ National regulation and implementation status of the Basel Convention of each country
- ✓ Guidelines for distinguishing waste and non-waste
- ✓ Combating illegal traffic and implementation of take-back.

The information provided by countries¹ is important input for the discussion at the workshop. For this reason, the Secretariat kindly requests all participants to fill out the questionnaire and send it back prior to the workshop. The outcomes of the questionnaire will be reported by the Secretariat at the workshop.

Please note that all country representatives are requested to give a presentation on their answers to the questionnaire in Session 1. Some selected country representatives will also be requested by the Secretariat to give a presentation in Session 2. It would be appreciated if you could prepare a presentation containing detailed information reflected in your answers to this questionnaire.

Submission:

Please fill out and send this questionnaire at your earliest convenience and no later than **12 August 2016** to the Secretariat. Contact information is as follows;

Mr. Osamu Sakamoto and Ms. Mari Kowaka Secretariat of Asian Network Workshop, 2015 Tel: +81-3-5956-7503, Fax: +81-3-5956-7523 E-mail: sakamoto@exri.co.jp , kowaka@exri.co.jp
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If you have any questions, please feel free to ask the Secretariat.

¹ This questionnaire uses the term “countries” since it is expected that most of respondents are competent authorities or focal points of countries. If you are not country representative, please fill out the information of your region, special administrative region or country where you are located.

1. Updates of National Laws/Regulations

Does your country have any updates of national laws/regulations related to implementation of the Basel Convention (e.g. establishment of new policies, laws/regulations, guidelines or amendment of existing legal system) since the Asian Network Workshop in 2015? If so, please fill out the form below and kindly send the soft copies of relevant laws/regulations to the Secretariat. (English documents are preferable, however it would still be helpful for us if you could send us documents in the original languages.)

New or amended laws/regulations

Name of the new regulation	Contents of laws/regulations	Enforcement date (dd/mm/yy)

Moreover, please check the information in the webpages of “Law and Regulation” and “Import Control on Secondhand” in the Asian Network website listed below and let us know if you have any amendments or additions to the information.

➤ Law and Regulation

(http://www.env.go.jp/en/recycle/asian_net/Country_Information/Law_and_Regulation.html)

➤ Import control on secondhand

(http://www.env.go.jp/en/recycle/asian_net/Country_Information/Import_ctrl_on_2ndhand.html)

2. Implementation of E-waste Guidelines in National Policies/Regulations on Control of UEEE and E-waste

<Background Information and purpose>

“Technical guidelines on transboundary movements of electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention” was adapted in the interim basis at the 12th meeting of the Conference of the Parties to the Basel Convention (COP12). The Decision BC-12/5 paragraph 3 invited parties and others to utilize the technical guidelines and to submit comments on their experiences to the COP through the Secretariat. The objective of this section is to identify the current status and experiences of countries in terms of the implementation of the E-waste guidelines.

<Policy framework >

<p>Has your country already established or planned to introduce any policy framework to distinguish waste from non-waste, particularly the distinction between used electric and electronic equipment (UEEE) and E-waste?</p> <p><input type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>If yes, please answer the following question.</p> <p>Has your country established guidelines for the distinction between waste and non-waste?</p>	
Name of guidelines	
Contents of guidelines	
Year	

<Status of implementation of the E-waste Guidelines>

Q1	<p>What are difficulties to implement E-waste guidelines in your country? (Multiple Choice)</p> <p><input type="checkbox"/> Lack of cooperation among responsible ministries/departments to develop new regulation or guidelines (e.g., competent authority, Customs, Ministry of Industry, etc.)</p> <p><input type="checkbox"/> Lack of capacity of competent authority and Customs to implement the guidelines.</p> <p><input type="checkbox"/> Low awareness of importers/exporters of UEEE.</p> <p><input type="checkbox"/> Lack of technical capacity of relevant persons (e.g. competent authority and Customs) to check criteria recommended in the guidelines (e.g., functionality test, etc.)</p> <p><input type="checkbox"/> Others (_____)</p>
Q2	<p>The paragraph 31 (a) of the guidelines specifies some conditions that UEEE destined for direct reuse, or extended use by the original owner, should not be considered as waste. The followings are conditions to check suitability for direct reuse recommended in the guidelines. If any of the following conditions are difficult to check in your country, please specify them and add reasons why you choose them. (Multiple choice)</p> <p><input type="checkbox"/> Invoice and contract relating to the sale and/or transfer of used equipment (Reason: _____)</p> <p><input type="checkbox"/> Evidence of passing functionality test (i.e., proof that UEEE is fully functional on the purpose for which it is originally intended) (Reason: _____)</p> <p><input type="checkbox"/> Declaration that none of the UEEE within the shipment is defined as or considered to be waste in any of countries involved in transport (including transit countries if they are known) (Reason: _____)</p> <p><input type="checkbox"/> Packing conditions (properly protected against damage during transportation) (Reason: _____)</p> <p><input type="checkbox"/> Others (_____) (Reason: _____)</p>

Q3	<p>The paragraph 31 (b) of the guidelines specifies that UEEE that is destined for failure analysis, or for repair and refurbishment with the intention of reuse, or extended use by the original owner, should not be considered as waste provided that a certain condition is met. Does your country have such facilities that import UEEE for failure analysis, repair/refurbishment and send back the equipment to the original users in the State of origin?</p> <p><input type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>If yes, please answer the following questions.</p> <hr/> <p>Does your country have any difficulties to implement the provisions in the paragraph 31 (b) of the guidelines? (e.g. low awareness or lack of understanding of people involved in TBM, difficult to obtain documents recommended by the Guidelines, such as a copy of invoice and/or contract, etc.)</p>
Q4	<p>If repair/refurbishment facilities are located in your country, how the competent authority controls transboundary movement (TBM) of the UEEE, and ensure environmentally sound management (ESM) of hazardous waste generated from the facilities? (Multiple choice)</p> <p><input type="checkbox"/> Develop guidelines or criteria on UEEE (or parts) that could be imported into your country for the purpose of repair, refurbishment, or failure analysis in accordance with paragraph 31 (b) of the E-waste guidelines.</p> <p><input type="checkbox"/> Require importers of such UEEE destined for failure analysis, repair or refurbishment to be licensed or certified by the competent authority</p> <p><input type="checkbox"/> Conduct periodical inspections to facilities to check whether they comply the relevant national provisions for environmental protection and other environmental permits or licenses</p> <p><input type="checkbox"/> Require facilities to keep record or inventory of UEEE that are repaired/refurbished, and submit report to the competent authority on a regular basis.</p> <p><input type="checkbox"/> Require facilities to submit information on wastes generated after the operations (including hazardous contents), and to send wastes to the waste management facilities licensed by the competent authority.</p>

< Issues for further work >

The E-waste guidelines were adopted at the COP12 on an interim basis. However, there are still issues for further work that relate to the fact that no agreement was reached, and that further discussion and consideration is required under the Basel Convention. These issues are listed in Appendix V of the guidelines² and some are important for Asian region to control TBM of UEEE.

² <http://www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>

Q5	<p>Among the issues for further work, which of the following issues does your country consider important for further discussions? Please specify and add reasons why you selected them. (Multiple choice)</p> <p><input type="checkbox"/> Notifications for Parties as per paragraphs 27 and 29 (Reason:)</p> <p><input type="checkbox"/> Residual life time and age of used equipment (Reason:)</p> <p><input type="checkbox"/> Obsolete technologies, including cathode ray tubes (Reason:)</p> <p><input type="checkbox"/> Identification of relevant actors in the documentation (Reason:)</p> <p><input type="checkbox"/> Specific exemption for medical devices (Reason:)</p> <p><input type="checkbox"/> Specific exemption for used parts (Reason:)</p> <p><input type="checkbox"/> Waste resulting from failure analysis, repair and refurbishment activities (Reason:)</p> <p><input type="checkbox"/> Others () (Reason:)</p>
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3. Takeback Procedure of Hazardous Wastes and Other Wastes

<Background Information and purpose>

The workshop 2015 had intensive discussions regarding common difficulties on implementation of takeback procedures that countries in the region had faced. The major challenges listed below were grasped through the questionnaire survey and the workshop last year.

- ✓ Different definitions of hazardous wastes and opinions between parties
- ✓ Absence of importers/consignees/exporters
- ✓ Difficulties on the identification of the party/parties that should be responsible for the takeback and the costs incurred
- ✓ Lack of cooperation with competent authorities of the State of origin
- ✓ Lack of finance for takeback
- ✓ Far distance to the State of origin
- ✓ No means of takeback
- ✓ No legal obligation to takeback in the State of origin

- ✓ No national guidelines for takeback in the State of import

Through the discussions, the Network agreed to continue this discussion at the next Asian Network Workshop with a view to develop a framework under the Asian Network to harmonize the procedure of takeback of illegal shipments of hazardous waste, as seen in the Co-chairs' summary of the Workshop 2015.

The purpose of this section is to collect more concrete information on **actual cases** (including both good practices and bad cases) in order to classify the type of illegal cases and to identify commonalities that are necessary for the facilitation of takeback procedures. Furthermore, the survey also aims to collect information on **the measures** taken by your country to address difficulties for the implementation of takeback procedures. The information collected through the questionnaire will be a basement of discussion at the workshop 2016 and might enable Asian Network to consider possible actions to address the takeback issues.

<Actual cases of takeback>

Please fill out the following table and provide us with the information on actual cases of takeback procedures that your country has experienced as many as possible. Each case should be answered in the different form, therefore please copy the table below if you could share information on multiple cases of takebacks.

Year of notification	
Year of takeback	
Status	<input type="checkbox"/> Takeback procedure was successfully implemented and the waste was disposed in the State of origin in accordance with the paragraph 2(a) of Article 9. <input type="checkbox"/> Waste was not taken-back to the State of origin, but transported to a third country where ESM could be achieved in accordance with the paragraph 2(b) of Article 9. <input type="checkbox"/> Waste was disposed of in the State of import in accordance with the paragraph 2(b) of Article 9. <input type="checkbox"/> Still under discussion between the concerned Parties <input type="checkbox"/> Implementation of takeback was agreed between the concerned Parties, but still in the process of arranging takeback procedure <input type="checkbox"/> No initiative has been taken and the waste has been still stored in your own country <input type="checkbox"/> Because the takeback could not be implemented, waste was disposed of (or still being stored) in your country

	<input type="checkbox"/> Others ()
State of origin (if applicable)	
Type of wastes	
Volume (kg)	
What are types of illegality?	<input type="checkbox"/> No notification pursuant to the provisions of the Basel Convention <input type="checkbox"/> No consent pursuant to the provisions of the Basel Convention <input type="checkbox"/> Falsification, misrepresentation or fraud <input type="checkbox"/> Discrepancy between the document accompanying the waste and the actual amount/nature of the waste <input type="checkbox"/> Others ()
What are major challenges for implementation of takeback procedures? (Multiple choice)	<input type="checkbox"/> Different opinions among involved parties (particularly definition or interpretation of waste or non-waste) <input type="checkbox"/> Absence of importers/consignees <input type="checkbox"/> Absence of exporters <input type="checkbox"/> Lack of cooperation with competent authorities of the State of origin <input type="checkbox"/> Lack of capacity to analyze hazardous substances contained in wastes and to determine if wastes are hazardous or not. <input type="checkbox"/> Lack of finance for takeback (e.g. no insurance, bond or other guarantee) <input type="checkbox"/> Far distance to the State of origin <input type="checkbox"/> No means for takeback <input type="checkbox"/> No legal obligation for takeback in the State of origin <input type="checkbox"/> No national guidelines for takeback in the State of import <input type="checkbox"/> Others ()
What actions are taken by your Government? (Multiple choice)	<input type="checkbox"/> Investigated containers <input type="checkbox"/> Determined if the waste is hazardous waste and shipment is illegal under the national regulation of importing country <input type="checkbox"/> Reported the case to the BRS Secretariat <input type="checkbox"/> Consulted with the competent authority in the State of origin <input type="checkbox"/> Ordered the importer in your country to re-export illegal waste <input type="checkbox"/> Requested the exporter in the State of origin to takeback illegal waste <input type="checkbox"/> Issued notification to the competent authority of the State of origin in accordance with paragraph 2 of Article 9. <input type="checkbox"/> Issued notifications to the competent authorities of the transit countries involved. <input type="checkbox"/> Others ()
How does your country	<input type="checkbox"/> Defined in the national law/regulation <input type="checkbox"/> Determined by court decision

determine the responsible person for the takeback?	<input type="checkbox"/> Determined through bilateral discussions with the government of the State of origin <input type="checkbox"/> Others ()
Who conducted investigation?	<input type="checkbox"/> Competent authority of importing country <input type="checkbox"/> Other agencies in the importing country (e.g., Customs, Port Authority or Police) <input type="checkbox"/> Competent authority of exporting country <input type="checkbox"/> Others ()
Who paid cost for investigation?	<input type="checkbox"/> Government of importing country <input type="checkbox"/> Importer <input type="checkbox"/> Consignee <input type="checkbox"/> Exporter <input type="checkbox"/> Government of State of origin <input type="checkbox"/> Others ()
Who paid cost for storage until takeback was implemented?	<input type="checkbox"/> Government of importing country <input type="checkbox"/> Importer <input type="checkbox"/> Exporter <input type="checkbox"/> Government of the State of origin <input type="checkbox"/> Others ()
Who paid cost for transporting illegal waste to the State of origin?	<input type="checkbox"/> Government of importing country <input type="checkbox"/> Importer <input type="checkbox"/> Consignee <input type="checkbox"/> Shipping company <input type="checkbox"/> Exporter <input type="checkbox"/> Government of the State of origin <input type="checkbox"/> Others ()
Lessons learnt	<p>If takeback was completed in this case, what were the factors of the success? Or if it was not completed, what are remaining issues to be addressed? Please give us your comment.</p>

<Countermeasures to overcome difficulties in implementing takeback procedures>

Has your country taken any countermeasures in order to overcome difficulties for the implementation of takeback procedures? Please fill out the following table.

Common difficulties	Countermeasures which are taken in your country
Different opinions between exporting and importing country (Multiple choice)	<input type="checkbox"/> Sending notification on the national definition of hazardous waste or import regulation to the Parties through BRS Secretariat in accordance with Article 3, 4, 13 <input type="checkbox"/> Following a stricter regulation of the competent authorities on the definition of hazardous waste for the implementation of takeback procedure as the case of EU ³ <input type="checkbox"/> Holding face-to-face bilateral consultation meetings between concerned countries to discuss the issues <input type="checkbox"/> Conducting joint investigations between concerned countries <input type="checkbox"/> Sharing Information on waste definition among countries on a regular basis <input type="checkbox"/> Others ()
Absence of exporter, importer, consignee (Multiple choice)	<input type="checkbox"/> Cooperation among competent authorities involved in TBM to identify the exporter, importer or consignee <input type="checkbox"/> Sharing intelligence on TBM of hazardous waste among concerned Parties and/or relevant authorities (e.g., Customs) <input type="checkbox"/> Ordering shipping companies to takeback illegal waste if exporters or importers are not found <input type="checkbox"/> Others ()
Lack of contact or cooperation among involved competent authorities (Multiple choice)	<input type="checkbox"/> Transmitting information to the BRS Secretariat and/or BCRCs, and requesting them to facilitate the communication among involved competent authorities <input type="checkbox"/> Utilizing the contact list of the Asian Network which is updated on a regular basis <input type="checkbox"/> Others ()
Lack of financial /technical capacity to implement takeback (Multiple choice)	<input type="checkbox"/> Establishing deposit system for the import of materials that can be used for takeback procedure or treatment/disposal when it is found out that the imported items include hazardous wastes (e.g., deposit system for imported discarded materials in Vietnam) <input type="checkbox"/> Requiring exporters/importers to have appropriate insurance system that could cover the cost of the implementation of takeback <input type="checkbox"/> Requiring exporters/importers to show financial capability to implement takeback if necessary (e.g., bank guarantee, etc.) <input type="checkbox"/> Request Government of the State of origin to implement takeback on behalf of exporters responsible for takeback (the Government in the

³ If disagreement between competent authorities about waste or non-waste then it shall be waste (Article 28 of Regulation No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste)

Common difficulties	Countermeasures which are taken in your country
	State of origin then collects actual cost of the takeback procedure from the exporter; administrative subrogation) <input type="checkbox"/> Others ()
No legal obligation to takeback in the State of origin (Multiple choice)	<input type="checkbox"/> Utilizing <i>“Guidance on the implementation of the Basel Convention provisions dealing with the consequences of illegal traffic (para 2, 3, 4 of Article 9)”</i> that was developed by the Implementation and Compliance Committee (ICC). <input type="checkbox"/> Following the stricter regulation on the definition of hazardous waste for the implementation of takeback procedure as the case of EU <input type="checkbox"/> Others ()
Far distance to the State of origin and/or lack of capacity to deal with waste in the State of origin (Multiple choice)	<input type="checkbox"/> Treating/disposing wastes in an environmentally sound manner in importing countries if ESM facilities are available <input type="checkbox"/> Exporting to third countries that have capacity achieving ESM of wastes <input type="checkbox"/> Others ()

4. Terms of Reference of the Asian Network

1. Activities of the Asian Network

Establishment of the Asian Network was proposed by the Government of Japan, and it was acknowledged by Parties at the First Session of the Open-ended Working Group of the Basel Convention (OEWG 1) in Geneva, Switzerland held from 28 April to 2 May 2003. The Terms of Reference (TOR) of the Asian Network was drafted by the Ministry of the Environment (MOEJ) in 2003 and agreed at the 1st Asian Network workshop which was held in Tokyo, Japan on 7-8 December 2004. However, more than 10 years have passed since the TOR was developed, and some of the activities listed on the TOR might already be outdated or not match well with the current needs of the countries in the region anymore, and there might be some other activities that should be newly added on the list.

<List of activities>

- (1) Collecting and disseminating information which are deemed useful for promoting cooperation and coordination among country authorities for prevention of illegal transboundary movement of wastes in the region. Information to be collected and disseminated may include, but not be limited to:
- i) Basic information on the Basel Convention;
 - ii) National legislations and regulations covering the transboundary movements of wastes as well as control of second-hand commodities, and their implementation status;
 - iii) Actual cases of illegal transboundary movement of hazardous wastes, in particular, including

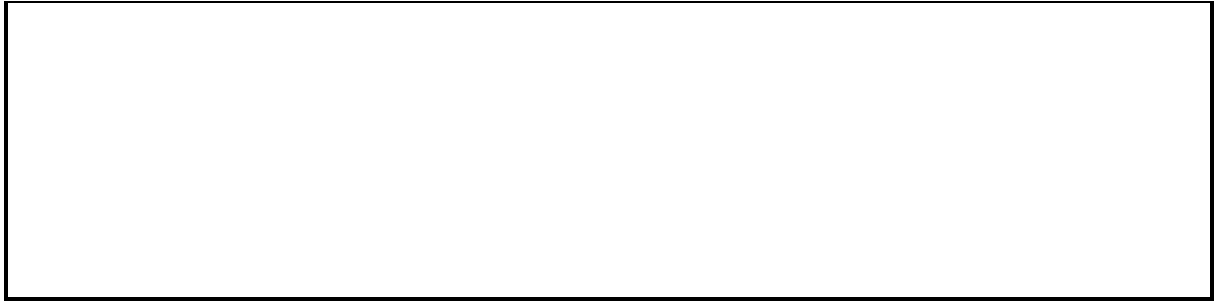
- inappropriate shipments of second-hand commodities and recyclable materials,
- iv) Activities and experiences to enhance relationship with customs and port authorities; and
 - v) International flow of selected materials of common concern to participating Asian countries, e.g. second-hand commodities and recyclable materials.
- (2) Providing a forum for facilitating day-to-day information exchange and dialogue among participating country authorities;
 - (3) Supplying the information accumulated in the Network for capacity building activities for Asian countries, e.g. guidelines and technical manuals;
 - (4) Organizing workshops, seminars and other training events aiming at promotion of the information exchange activities described above; and
 - (5) Developing and operating an Internet website, which has linkage to relevant organizations such as customs, port authorities, and Secretariats of relevant international treaties, as one of the tools to promote information exchange and dissemination regarding abovementioned activities.

What kind of issues do you think should be given a priority for the consideration in the future Asian Network both in the short term period and the long term period? Also, what kind of activities should be implemented to tackle to these issues? Please give us your comments.	
Issues to be addressed in short term (single year activity)	
Issues to be addressed in mid-long term (multi years activity)	

2. Asian Network website

The Asian Network Website (https://www.env.go.jp/en/recycle/asian_net/) was established by MOEJ in 2004 and has been updated from time to time. The purpose of this website is to share information on the prevention of illegal traffic not only among Asian countries but also countries in the other regions that are concerned about illegal TBM of hazardous waste. We will update the website in the near future taking into account the comments provided by participating countries and other stakeholders.

Please give us your opinion freely on the website, particularly on structure, design and content of the website.



Thank you for your cooperation in answering the questionnaire. We appreciate the information you have shared with us.