



# ASEAN NETWORK WORKSHOP FOR PREVENTION OF ILLEGAL TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTE 2020

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## Update of National Law, Regulation or Policy to Control the Import of E-Waste

Hazardous Substances Division,  
Department of Environment Malaysia  
19 – 20 November 2020

# RELATED LAW AND REGULATIONS IN MALAYSIA

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HAZARDOUS SUBSTANCES DIVISION,  
DEPARTMENT OF ENVIRONMENT,  
MALAYSIA

1.	Section 18, Environmental Quality Act 1974_: <ul style="list-style-type: none"><li>▪ Prescribed Premises</li></ul>	▪ Disposal / treatment / recovery facility shall be licensed.
2.	Section 34A, Environmental Quality Act 1974_: <ul style="list-style-type: none"><li>▪ Environmental Impact Assessment</li></ul>	▪ Requirement for all disposal/ treatment / recovery facility
3.	Section 34B, Environmental Quality Act 1974_: <ul style="list-style-type: none"><li>▪ Section 34B(1)(b) – Import &amp; Export<ul style="list-style-type: none"><li>- Receive or send, or cause or permit to be received or sent any scheduled wastes in or out of Malaysia; or</li></ul></li><li>▪ Section 34B(1)(c) – Transit<ul style="list-style-type: none"><li>- Transit or cause or permit the transit of scheduled wastes</li></ul></li></ul>	▪ Director General (DG) Written Approval Prior to Shipment
4.	Environmental Quality (Scheduled Wastes) Regulations 2005	▪ List of Scheduled Waste and managing the waste.



5.	Custom Prohibition (Import) Order 2017 <ul style="list-style-type: none"><li>3<sup>rd</sup> Schedule Part I item 55 for Toxic and/ or HWs</li></ul> Custom Prohibition (Export) Order 2017 <ul style="list-style-type: none"><li>3<sup>rd</sup> Schedule Part I item 32 for Toxic and/ or HWs</li></ul>	<ul style="list-style-type: none"><li>Import/Export with the DG of Environment approval.</li></ul>
6.	Guideline for the Transboundary Movement of Used Electrical and Electronic Equipment (UEEE)	<ul style="list-style-type: none"><li>Procedure to import UEEE</li></ul>
7.	Communications and Multimedia Act 1998 (Communication & Multimedia (Technical Standards) Regulations 2000)	<ul style="list-style-type: none"><li>Equipment with LAN, WIFI (Networking modules apparatus)</li></ul>
8.	Electricity Regulations 1994 (Guideline for Approval of Electrical Equipment)	<ul style="list-style-type: none"><li>Certificate of Approval (CoA) to import, manufacture, display, sell or advertise regulated electrical equipment.</li></ul>

# IMPLEMENTATION OF BASEL CONVENTION IN MALAYSIA

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MALAYSIA

In implementing the Convention, Malaysia has adopted the principles and basic obligations stated under the provision of Basel Convention to established the following policies:

- Transboundary movement of hazardous wastes for final disposal is **PROHIBITED**
- Exportation of hazardous waste is only allowed if:
  - there is **no local recovery facility or technology** which capable to process the waste
  - the importing country has better technology which will results in higher recovery rate than technology available in Malaysia;



- Importation of hazardous waste for the purpose of recovery process is not allowed.
- Importation of scheduled waste is only allowed for the purpose of **direct reuse** (raw reuse) as raw materials or alternative materials and such waste is not available in the country.
- Importation of hazardous waste from the countries listed in Annex VII to the Basel Convention is **PROHIBITED**, namely: -
  - i. OECD (Organization for Economic Co-operation and Development);
  - ii. EC (European Commission); and
  - iii. Liechtenstein

Ban Amendment came into force on 5<sup>th</sup> December 2019.

# TRANBOUNDARY MOVEMENT OF HAZARDOUS WASTE 2020 (EXPORT)



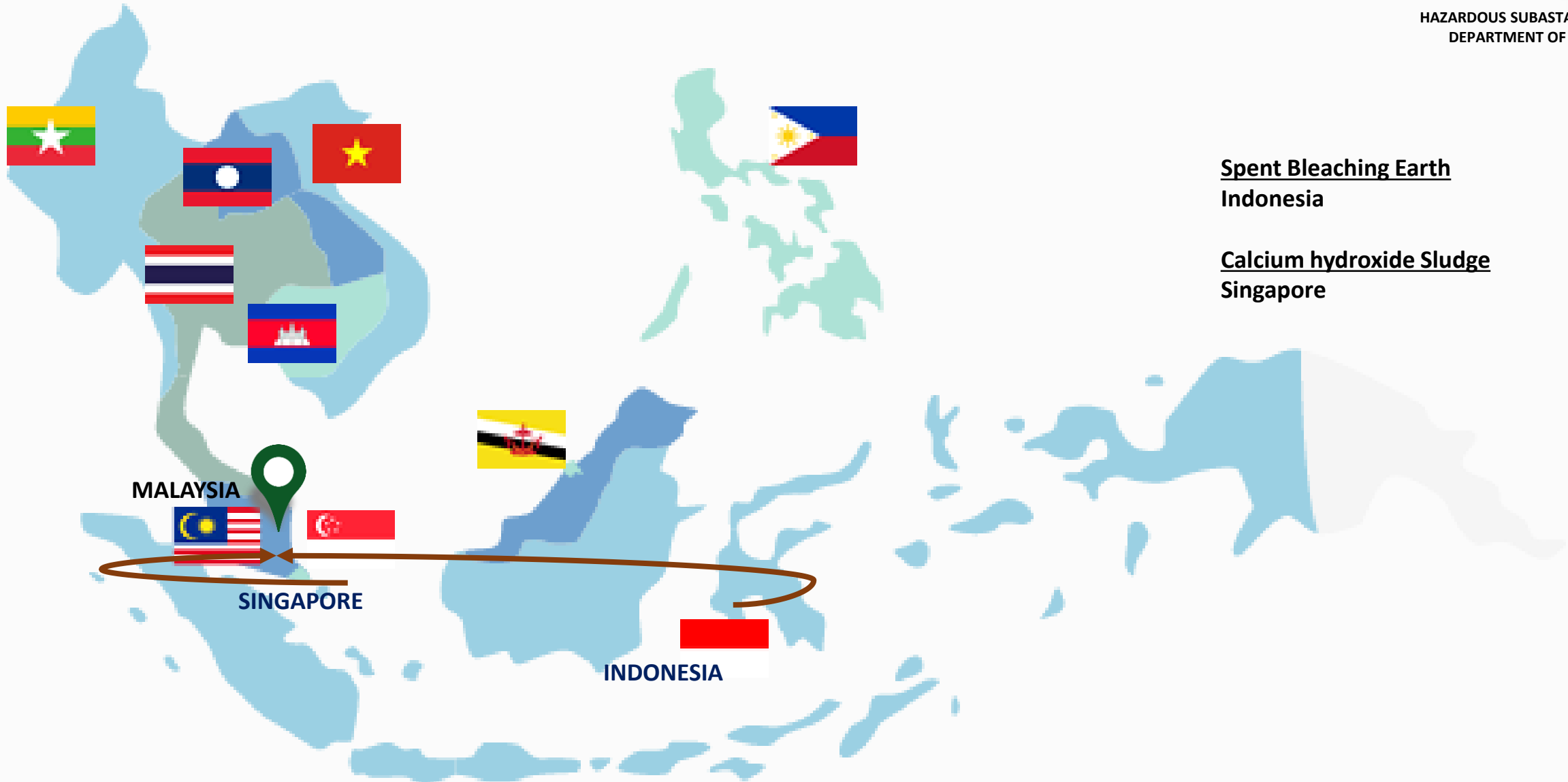
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# TRANBOUNDARY MOVEMENT OF HAZARDOUS WASTE 2020 (IMPORT)



HAZARDOUS SUBSTANCES DIVISION,  
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MALAYSIA



Spent Bleaching Earth  
Indonesia

Calcium hydroxide Sludge  
Singapore

# E-WASTE MANAGEMENT IN MALAYSIA



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DEPARTMENT OF ENVIRONMENT,  
MALAYSIA



## Regulation

### E-waste from Industry

- Regulated under the **Environmental Quality (Scheduled Wastes) Regulations 2005** that came into effect on 15<sup>th</sup> August 2005, administrated by the Department of Environment.
- Generated e-waste must be treated and disposed at **prescribed or licensed premises by DOE** in an **Environmentally Sound Manner (ESM)**.

### E-Waste from Household

- Under the current Regulation, E-waste produced by **household has not been fully enforced**.
- “The Project for Development of Mechanism for Household e-waste Management” is planned and conducted to develop the mechanism for the management of household E-waste .
- Regulation drafted emphasizes the concept of “shared responsibility” among the stakeholder which incorporates the concept of “Extended Producers’ Responsibility (EPR)”



# IMPORTATION OF USED ELECTRICAL AND ELECTRONIC EQUIPMENT

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Waste electrical and electronic equipment or commonly known as e-waste:

i. Malaysia

categorized as scheduled wastes, code SW 110, First Schedule, Environmental Quality (Scheduled Wastes) Regulations 2005

ii. Basel Convention

listed as code A1180 and code A2010 under Annex VIII, List A of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 1989



## Used electrical and electronic equipment (UEEE) :

- i. that can be used for the purpose of direct reuse for which it was originally intended.
  
- ii. should be tested for its functionality along with appropriate documentation and declaration of testing result, prior to any transboundary movement.

# Distinction Between E-Waste and UEEE



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## E-WASTE

- Defect that materially affects its functionality.
- Physical damage that impairs its functionality or safety.
- Insufficient packaging to protect it from damage during transportation, loading and unloading operation.
- Worn or damaged, thus reducing the marketability of the equipment.
- Destined for recycling or recovery or dismantling or disposal or its fate is uncertain.
- Discarded, or are intended or are required to be discarded.
- No regular market for the used electrical and electronic equipment.
- Old or outdated or no regular market for the equipment to be reused or has poor resale value.
- Not complete or missing any parts and it cannot perform its full function.
- End-of-life.
- Age more than three (3) years from the year of manufacture.

## UEEE

- Destined for the purpose of repair that is still covered under the warranty from the OEM.
- Destined for the purpose of direct reuse for which it was originally intended.
- Age less than three (3) years from the date of manufactured.

**E-WASTE**



**VS**

**UEEE**





# Policy for transboundary movement of E-Waste and UEEE

## E-WASTE

1. The **importation of E-Waste** into Malaysia is **PROHIBITED**. Licensed recovery facility shall manage, and process E-waste generated and collected in the country.
2. The **exportation of E-Waste** from Malaysia is **allowed only if**:
  - (a) the importing country has better technology which will results in higher recovery rate than technology available in Malaysia;
  - (b) the company policy to return or export the E-Waste generated to designated facility due to intellectual property (IP).

## UEEE

The transboundary movement of UEEE is allowed subject to the following conditions:

- i. Age of equipment shall be three (3) years or less from the date of manufactured.
- ii. For the purpose of direct reuse for which it was originally intended.
- iii. For the purpose of repair under warranty. UEEE shall be covered under the warranty from the Original Equipment Manufacturer.
- iv. Individually protected appropriately against any damage during transport, loading and unloading.
- v. Receiving facility in Malaysia shall comply with the Environmental Quality Act 1974 and regulations thereunder.
- vi. Receiving facility for defective UEEE under warranty shall be equipped with tracking system.
- vii. Do not contaminated with any hazardous substances.
- viii. Does not consist of any telecommunication devices.
- ix. An inspection shall be done for every unit prior to the shipment in the origin country by third party inspection body accredited under ISO/IEC 17020

# ILLEGAL TRAFFIC /SHIPMENT

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- Article 9 of the Basel Convention
  1. Without notification.
  2. Without consent.
  3. With consent through falsification, misrepresentation or fraud.
  4. Does not conform in a material way with documents.
  5. Results in deliberate disposal in contravention and principles of international law.
- Container / shipment shall be returned to the country of origin.



## Section 34B, Environmental Quality Act 1974:

- Section 34B(1)(b) – Import & Export
  - Receive or send, or cause or permit to be received or sent any scheduled wastes in or out of Malaysia
- any importation or exportation of scheduled wastes requires prior written approval from the Director General



Penalty under Section 34B, EQA 1974 for illegal transboundary movement of scheduled wastes



**LIABLE TO IMPRISONMENT FOR A PERIOD NOT EXCEEDING 5 YEARS AND A FINE NOT EXCEEDING RM 500,000.00**

# PROCEDURE FOR REPATRIATION OF CONTAINER (ILLEGAL SHIPMENT)

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MALAYSIA

Department of Environment Malaysia has established Standard Operating Procedure (SOP) for Illegal Importation & Exportation of Hazardous Waste.

- Investigation procedure
- Issuance of Notice to the importer
  - To return the container to the exporter.
- Notify the CA of the exporting country



# WAY FORWARD IN MANAGING ILLEGAL SHIPMENT

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1

Enhance collaboration between relevant agencies such as customs and port authority

2

Enhance international cooperation such as Competent Authority (CA), Interpol and Europol (networking)

3

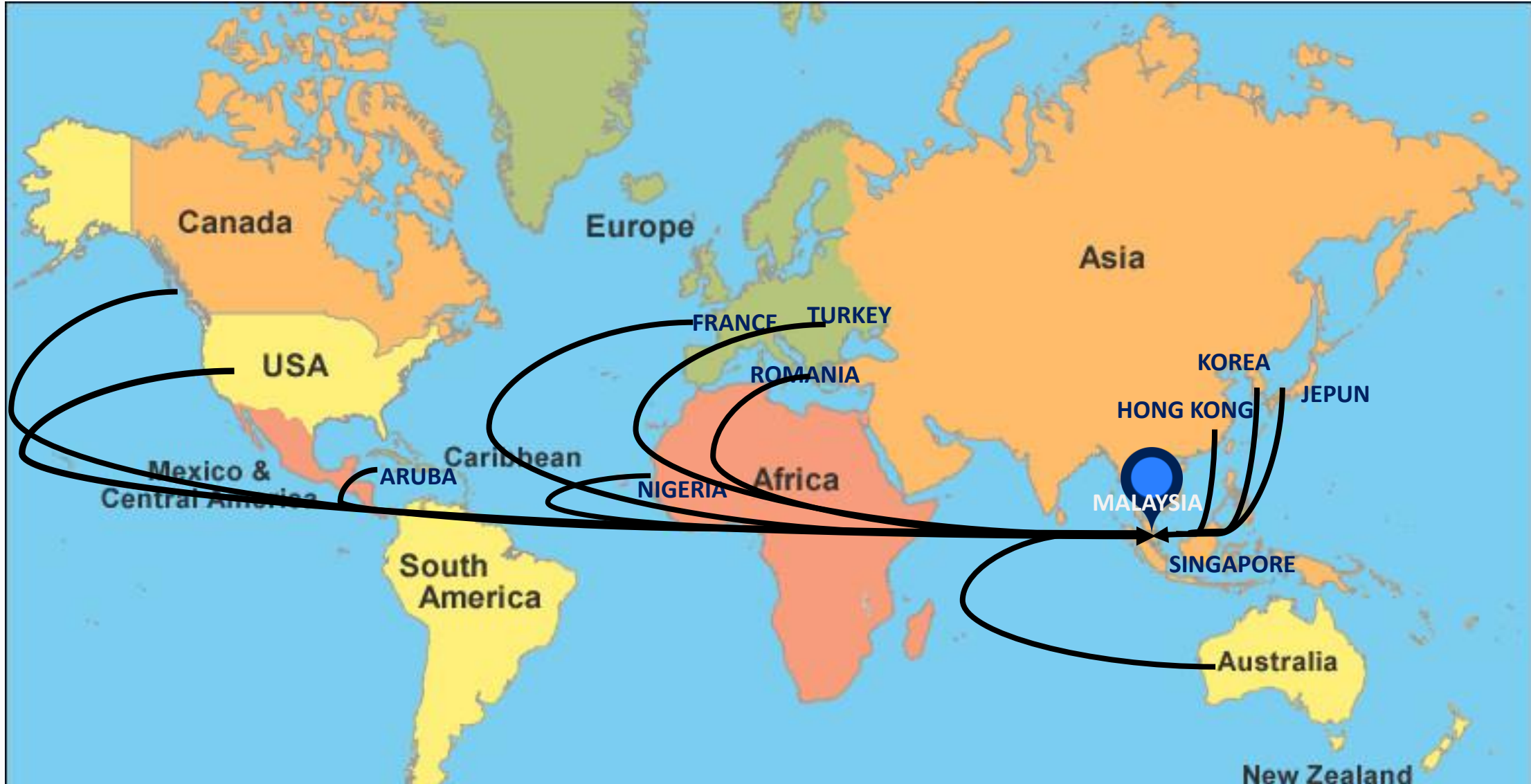
Continuously review the policy, guideline and procedure



# ILLEGAL SHIPMENT OF HAZARDOUS WASTE 2020



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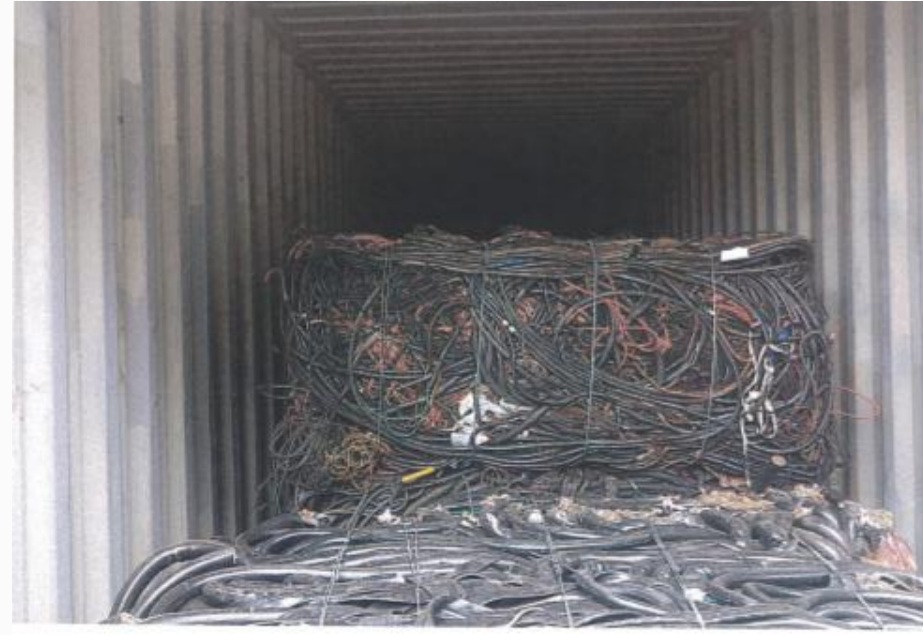


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Thank You

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KEMENTERIAN  
ALAM SEKITAR DAN AIR  
Ministry of Environment and Water

# MALAYSIA'S PREPARATION TO IMPLEMENTING AMENDMENTS TO THE BASEL CONVENTION

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MINISTRY OF ENVIRONMENT & WATER  
MALAYSIA



# CURRENT SITUATION

- Plastic waste is a controlled item under the Solid Waste and Public Cleansing Management Act 2007 [Act 672] by the Department of National Solid Waste Management (DNSWM).
- The importation of plastic waste under the HS Code 3915 is controlled under the Custom (Prohibition of Import) Order 2017 which the import manner required an approved permit (AP) from the DNSWM.
- Department of Environment (DOE) only allows premises that fully comply with Environmental Quality Act (EQA) 1974 to import plastic waste to be recycled at their premises.
- DOE as the Focal Point to the Basel Convention has transmitted information to the Secretariat of the Basel Convention on the controlling of plastic waste that required special consideration (i.e. approved permit requirement) when subjected to transboundary movement.

# CURRENT SITUATION

- Thus, importation of Plastic waste (HS3915) without AP, incompliance with AP condition and EQA 1974 is prohibited in Malaysia. Shipments will be returned to the exporting country.
- The government of Malaysia is taking stern action to combat the illegal movement of plastic waste into Malaysia by stopping the movement at the source, which is at the ports. To date, the government of Malaysia has repatriated 246 containers of illegal plastic waste exported from 21 countries.



# **MALAYSIA'S RESPONSE TO THE AMENDMENTS TO ANNEXES OF THE BASEL CONVENTION TO BETTER MANAGE PLASTIC WASTE**

In order to meet the new obligations under the Basel convention to require prior informed consent for export of mixed plastic waste, we are proposing to amend Malaysia's existing permit system for imports and exports of plastic waste to meet the criteria of mixed plastic as described in Y48, Annex II of the Basel Convention.

We propose to prescribe specification for imports and exports of separated plastic waste to meet the criteria of “almost free from contamination and other types of wastes” as described in Annex IX of the Basel Convention (eg: rate and types of contamination) – The challenge of this proposal is to determine the maximum rate of contamination.

# **MALAYSIA'S RESPONSE TO THE AMENDMENTS TO ANNEXES OF THE BASEL CONVENTION TO BETTER MANAGE PLASTIC WASTE**

We are proposing to prescribe the recycling rate for imports of plastic waste to encourage only separated and high value plastic waste to be imported. This is also to ensure the imported plastic waste is destined for recycling in an environmentally sound manner.

Validation process for wastes which do not require prior consent might be needed (Annex IX). This is to discourage the low value plastic waste being imported.

# SUMMARY

The National Specifications for imports and exports of plastic waste:

- i) will help to differentiate the types of plastic waste whose transboundary movement will be subjected to the Prior Informed Consent (PIC) procedure under the Basel Convention when the international obligation comes into effect on 1<sup>st</sup> January 2021; and
- ii) To facilitate and as a guidance for trading of plastic waste which comes under Annex IX without the need for the PIC procedure, and allow the continued import of higher value plastic waste for recycling.



TERIMA KASIH

