

(Provisional Translation)

Matters listed in Article 3, items (i) to (iv) of the Law for the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes pursuant to the provision of Article 3 of the same Law

In recent years, hazardous wastes and other wastes have been imported and exported across national boundaries and improperly disposed of, exerting an impact on human health and the living environment of people in many cases and becoming an issue of international concern.

For this reason, measures to deal with the environmental pollution issue in association with transboundary movements of hazardous wastes and other wastes have been studied on an international basis. As a result, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (hereinafter referred to as “the Convention”) was adopted in March 1989.

Pursuant to the provision of Article 3 of the Law for the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes (hereinafter referred to as “the Law”), specified hereunder are matters necessary to ensure accurate and smooth implementation of the Convention and the bilateral, multilateral or regional agreements and arrangements specified in Article 11 of the Convention.

No. 1

Basic matters concerning measures to be taken to prevent damage to human health or the living environment that is likely to occur in association with the export, import, transportation and disposal of specified hazardous wastes, etc.

1. Minimization of export and import

The Government shall restrict the generation of specified hazardous wastes, etc. to the extent possible, and promote the effective use and proper disposal of generated specified hazardous wastes, etc. and other measures within the country in an effort to minimize the export and import of specified hazardous wastes, etc.

2. Environmentally sound export and import

(1) Export and import of specified hazardous wastes, etc. (excluding those that need to be controlled based on the Council Decision concerning the control of transboundary movements of wastes destined for recovery operations by the Organization for Economic Cooperation and Development (OECD) (hereinafter referred to as “the Council Decision”)) that are not consistent with the matters specified in the following items shall not be deemed to be environmentally sound pursuant to the provisions of the Convention.

(i) In regard to export of specified hazardous wastes, etc.;

(a) such export shall fall under any of the following cases:

i) where Japan does not have the technical capacity or the necessary facilities, or the disposal capacity or suitable disposal sites to dispose, in an environmentally sound and efficient manner, of specified hazardous wastes, etc. to be exported;

ii) where specified hazardous wastes, etc. to be exported are required as raw materials for recycling or recovery industries in the State of import; or

iii) where specified hazardous wastes, etc. to be exported are exported, imported, transported and disposed of by the Parties of the Convention (hereinafter referred to as “the Parties”) as a whole in accordance with the criteria decided as provided in Article 4-9 (c) of the Convention;

(b) such export shall not be made to non- Parties;

(c) such export shall not be made to the area south of 60 degrees south latitude;

(d) such export shall not be the export of specified hazardous wastes, etc. prohibited by the State of import;

(e) consent for such export shall have been obtained in writing from the State of import and the Party of transit; provided, however, that this shall not apply to the consent of the Party of transit if the Party of transit in question does not require written consent and when Japan does not obtain any response from the Party of transit in question within sixty days after the day the Party of transit in question has received notification from Japan;

- (f) confirmation shall have been received from the State of import that a contract between the exporter and the disposer is concluded that clarifies, in regard to the specified hazardous wastes, etc. to be exported, that transportation and disposal shall be implemented in an environmentally sound manner;
- (g) it shall be found that the transporter and disposer have the capacity to transport and dispose of specified hazardous wastes, etc. in an environmentally sound manner, and that their transportation and disposal are ensured to be implemented in a manner that falls neither below the level required from an environmental conservation viewpoint applicable in Japan, nor below the criteria to be decided on by the Parties at their meeting, as provided in Article 4-2 (e) of the Convention;
- (h) necessary measures shall have been taken when the State of import or the Party of transit requires insurance, a bond or some other guarantee for the import, transportation or disposal of specified hazardous wastes, etc., or the exporter, transporter and disposer shall have a sufficient financial base and technical capacity to ensure export, transportation and disposal, respectively, of specified hazardous wastes, etc.; and
- (i) such export shall be consistent with other necessary matters for the accurate and smooth implementation of the Convention.
- (ii) In regard to import of specified hazardous wastes, etc.;
- (a) such import shall not be made from non- Parties;
- (b) prior to import approval, Japan shall be in receipt of notification pertaining to such import of the said specified hazardous wastes, etc.;
- (c) a contract between the exporter and the disposer is concluded that clarifies, in regard to the specified hazardous wastes, etc. to be imported, that transportation and disposal shall be implemented in an environmentally sound manner; and
- (d) such import shall be consistent with other necessary matters for the accurate and smooth implementation of the Convention.
- (2) Export and import of specified hazardous wastes, etc. (limited to those that need to be controlled by Japan based on the Council Decision) that are not consistent with the

matters specified in the following items shall not be deemed to be environmentally sound pursuant to the provisions of the Convention.

(i) In regard to export of specified hazardous wastes, etc.;

(a) consent for such export shall have been obtained in writing from the State of import and the State of transit that is a member of the Organization for Economic Cooperation and Development (OECD) (hereinafter to be referred to as “OECD member”); provided, however, that, in regard to the export of specified hazardous wastes, etc. that Japan controls pursuant to the provisions of Annex 1-IV of the Council Decision, consent shall be deemed to be given if the competent authorities of the State of import and the OECD member of transit do not respond within thirty days from the day of the issuance of the notice of receipt for the notification from the State of import to Japan;

(b) a written contract between the exporter, transporter, importer and disposer, or in the case where specified hazardous wastes, etc. are transported between the places of business managed by a single legal person, etc., arrangements equivalent to the contract between the places of business shall exist; the contract, etc. shall include matters concerning an alternative transporter or disposer and bearing of expenses in cases where the transportation or disposal of specified hazardous wastes, etc. to be exported cannot be completed in accordance with the content of the contract, etc.; and

(c) such export shall be consistent with other necessary matters for the accurate and smooth implementation of the Council Decision.

(ii) In regard to import of specified hazardous wastes, etc.;

(a) a written contract between the exporter, transporter, importer and disposer, and in the case where specified hazardous wastes, etc. are transported between the places of business managed by a single legal person, etc., arrangements equivalent to the contract between the places of business shall exist; the contract, etc. shall include matters concerning an alternative transporter or disposer and bearing of expenses in cases where the transportation or disposal of specified hazardous wastes, etc. to be imported cannot be completed in accordance with the content of the contract, etc.;

(b) prior to import approval, Japan shall be in receipt of notification pertaining to such import of such specified hazardous wastes, etc.; and

(c) such import shall be consistent with other necessary matters for the accurate and smooth implementation of the Council Decision.

3. Competent authority

The competent authority in Japan for the Convention and the Council Decision shall be the Ministry of the Environment. The Ministry of the Environment is responsible for providing notification to the State of import, etc. pertaining to the export of specified hazardous wastes, etc. and receiving responses to such notification from the State of import, etc., receiving notification from the State of export pertaining to the import of specified hazardous wastes, etc. and responding to the State of export in regard to said notification; etc.

4. Procedures pertaining to export, transportation and disposal

In regard to the export, transportation and disposal of specified hazardous wastes, etc. the following procedures shall be taken:

(1) Application pertaining to the export approval

Any person who intends to export specified hazardous wastes, etc. shall be obliged to obtain an export approval from the Minister of Economy, Trade and Industry pursuant to the provision of Article 48, paragraph (3) of the Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949).

In cases where such export is subject to confirmation by the Minister of the Environment pursuant to the provision of Article 10, paragraph (1) of the Waste Disposal and Public Cleansing Law (Law No. 137 of 1970) (including the cases where applied *mutatis mutandis* pursuant to Article 15-4-6, paragraph (1)), an application for export approval shall be made after receiving the confirmation.

(2) Notification

The Minister of the Environment shall notify the competent authorities of the State of import and the Party or OECD member of transit, in writing, of the export of the said specified hazardous wastes, etc., receive responses to the notification in writing from the State of import and the Party or OECD member of transit, and transfer the responses to the Minister of Economy, Trade and Industry.

In the case where the State of transit is a non- Party or a non-OECD member, the Minister of the Environment shall notify, in writing, the relevant government authorities of the State of transit.

(3) Confirmation by the Minister of the Environment

When an application for export has been made pertaining to the regions and specified hazardous wastes, etc. specified by the Ordinance Specifying the Regions and Specified Hazardous Wastes, Etc. set forth in Article 4, paragraph (2) of the Law for the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes (Prime Minister's Office and Ministry of International Trade and Industry Joint Ordinance No. 3, 1993), the Minister of the Environment shall confirm whether or not necessary measures have been taken to prevent environmental pollution in regard to the disposal of the specified hazardous wastes in question, etc., and notify the Minister of Economy, Trade and Industry of the results.

(4) Export approval by the Minister of Economy, Trade and Industry

The Minister of Economy, Trade and Industry shall, in the cases set forth in (3), not approve an export before receiving notification that the Minister of the Environment has confirmed that necessary measures are taken to prevent environmental pollution.

(5) Issuance of an export movement document

The Minister of Economy, Trade and Industry shall, upon approving the export set forth in (4), promptly issue an export movement document to the person who has been granted the export approval.

(6) Transportation

The transporter of specified hazardous wastes, etc. must, in addition to entering the necessary matters on the export movement document pertaining to such specified hazardous wastes, etc. and signing the document, when transporting such specified hazardous wastes, etc., carry the export movement document and implement the transportation in an environmentally sound manner in accordance with the contents of the export movement document.

Relevant laws and regulations shall be complied with in order to ensure that specified hazardous wastes, etc. are packaged, labeled and transported in accordance with generally accepted and recognized international rules and standards.

(7) Disposal

The exporter of specified hazardous wastes, etc. shall endeavor to ensure that such specified hazardous wastes, etc. are disposed of in the State of import in an environmentally sound manner in accordance with the contents of the export movement document.

In cases where the Ministry of the Environment is not in receipt of the notice of the receipt or disposal of specified hazardous wastes, etc. from the disposer in the State of import, the Minister of the Environment shall notify the competent authorities of the State of import thereof.

5. Procedures pertaining to import, transportation and disposal

In regard to the import, transportation and disposal of specified hazardous wastes, etc., the following procedures shall be taken:

(1) Application pertaining to import approval

Any person who intends to import specified hazardous wastes, etc. shall be obliged to obtain an import approval from the Minister of Economy, Trade and Industry pursuant to the provision of Article 52 of the Foreign Exchange and Foreign Trade Law.

In cases where the import is subject to permission from the Minister of the Environment pursuant to the provision of Article 15-4-4, paragraph (1) of the Waste Disposal and Public Cleansing Law, an application for import approval shall be made after obtaining the required permission.

(2) Opinions, etc. of the Minister of the Environment

The Minister of the Environment shall, when in receipt of written notification of export of specified hazardous wastes, etc. from the State of export to Japan, transfer a copy of the written form pertaining to said notification to the Minister of Economy, Trade and Industry, and may, where the Minister of the Environment finds it necessary in order to

prevent environmental pollution, request necessary explanation from and state opinions to the Minister of Economy, Trade and Industry in advance before the Minister of Economy, Trade and Industry approves the export.

(3) Import approval granted by the Minister of Economy, Trade and Industry

Export from the State of export to Japan may commence following import approval by the Minister of Economy, Trade and Industry.

(4) Response to notification

The Minister of the Environment shall, where notice that an import has been approved or not approved is received from the Minister of Economy, Trade and Industry, send a response to the person who has given notification and the competent authorities of the State of export based on said notice stating that the Minister of the Environment consents or does not consent to the import of specified hazardous wastes, etc..

(5) Issuance of import movement document

The Minister of Economy, Trade and Industry shall, where the Minister has approved import for specified hazardous wastes, etc. and the movement document pertaining to said specified hazardous wastes etc. has been submitted by the person who has been granted the import approval, confirm that the contents of the such movement document are consistent with the details of the notification and then promptly issue an import movement document.

(6) Transportation

The transporter of specified hazardous wastes, etc. must, in addition to entering the necessary matters on the import movement document pertaining to such specified hazardous wastes, etc. and signing the document, carry the import movement document when transporting such specified hazardous wastes, etc. and implement the transportation in an environmentally sound manner in accordance with the contents of in the import movement document.

In cases where an import movement document has been amended, the Minister of the Environment shall endeavor to cooperate with the State of export by notifying the

competent authorities of the State of export, as necessary, of the details of the method, etc. of such transportation.

Relevant laws and regulations shall be complied with in order to ensure that specified hazardous wastes, etc. are packaged, labeled and transported in accordance with generally accepted and recognized international rules and standards.

(7) Disposal

The disposer of specified hazardous wastes, etc. must, when disposing of the said specified hazardous wastes, etc., carry the import movement document and implement the disposal in an environmentally sound manner in accordance with the contents of the import movement document.

The disposer must, when having received specified hazardous wastes, etc. and disposed of the such imported specified hazardous wastes, etc., notify the exporting party and competent authorities of the States of export and transit thereof.

In cases where the competent authorities of the State of export are not in receipt of the notice of the receipt or disposal of specified hazardous wastes, etc. from the disposer, the competent authorities of the State of export shall notify the Ministry of the Environment thereof.

6. Measures when improper export, import, transportation, or disposal has been conducted

The Government shall, where export, import, transportation, or disposal has not been conducted properly based on the provisions of the Convention and Council Decision, take measures to prevent damage to human health and the living environment through the accurate and smooth issuance of the order for measures set forth in Article 14 of the Law and others.

No. 2:

Basic matters that shall be considered by a person who implements the operation of export, import, transportation or disposal of specified hazardous wastes, etc. for the proper implementation of the operation

1. Minimization of export and import

Any person implementing an operation for the export, import, transportation or disposal of specified hazardous wastes, etc. (hereinafter referred to as an “operator”) shall, by considering the social, technical and economic aspects, endeavor to minimize the export and import of specified hazardous wastes, etc. by using proper disposal facilities in Japan to the extent possible.

2. Minimization of damage in association with collection, transportation and disposal

Any operator shall, in addition to preventing environmental pollution in association with the collection, transportation and disposal of specified hazardous wastes, etc., endeavor to minimize damage to human health and the living environment in cases where environmental pollution has occurred.

3. Knowing the situation of collection, transportation and disposal

Any operator shall endeavor to know the situation of collection, transportation and disposal of specified hazardous wastes, etc. and, when the occurrence of an accident concerning specified hazardous wastes, etc. that is likely to cause damage to human health and the living environment has come to his/her knowledge, endeavor to promptly notify the Minister of Economy, Trade and Industry and the Minister of the Environment thereof.

4. Matters concerning contracts pertaining to transportation and disposal

Any exporter and disposer of specified hazardous wastes, etc. shall conclude a contract that clarifies environmentally sound proper transportation and disposal, and said contract shall include matters concerning environmental conservation measures and matters concerning alternative measures if transportation and disposal are not completed in accordance with the details of the contract.

5. Compliance with relevant laws and regulations

Any operator shall, in addition to the provisions of the Law, comply with relevant laws and regulations to ensure the proper collection, transportation and disposal of specified hazardous wastes, etc.

No. 3:

Basic matters that shall be considered by citizens to ensure the reduction of hazardous waste generation and the proper disposal of specified hazardous wastes, etc.

1. Promotion of the reduction of the generation and the minimization of hazardous effects

The citizens shall endeavor to reduce the generation of specified hazardous wastes, etc. in Japan and minimize their hazardous effects.

2. Promotion of disposal inside Japan

The citizens shall endeavor to dispose of specified hazardous wastes, etc. generated in Japan in an environmentally sound manner inside of Japan to the extent possible.

No. 4:

Important matters in addition to what is listed in Nos. 1 to 3 to ensure the proper implementation of the export, import, transportation and disposal of specified hazardous wastes, etc.

1. Promotion of international cooperation

The Government shall promote international cooperation among the Parties, OECD members, relevant international organizations, etc. concerning the following matters:

- (1) Matters concerning the monitoring of illegal traffic in specified hazardous wastes, etc.
- (2) Matters concerning measures to deal with cases where specified hazardous wastes, etc. have not been properly exported, imported, transported or disposed of
- (3) Matters concerning the exchange of information pertaining to methods for collecting, transporting and disposing of specified hazardous wastes, etc.
- (4) Matters concerning the monitoring of the impact the collection, transportation and disposal of specified hazardous wastes, etc. has on human health and the living environment
- (5) Matters concerning the development, spread and transfer of such technologies as those to reduce the generation of, and properly dispose of, specified hazardous wastes, etc.

(including research into the impact of the said technologies on the economy, society and the environment)

- (6) Matters concerning the development of technical guidelines and implementation standards pertaining to methods for collecting, transporting and disposing of specified hazardous wastes, etc.

2. Promotion of technological development

The Government shall endeavor to develop and spread such technologies as those to reduce the generation of, and properly dispose of, specified hazardous wastes, etc. (including research into the impact of the said technologies on the economy, society and environment).

3. Promotion of securing disposal facilities in Japan

The Government shall endeavor to secure proper facilities for disposing of specified hazardous wastes, etc. in Japan.

4. Provision of information

The Government shall endeavor to provide information on the actual results of the export and import of specified hazardous wastes, etc., the situation of controlling the export and import of specified hazardous wastes, etc. in the Parties and other countries, and technologies to reduce the generation of and properly dispose of specified hazardous wastes, etc., as well as any other information necessary to ensure the proper export, import, transportation and disposal of specified hazardous wastes, etc.

5. Periodic review pertaining to the minimization of export, etc.

The Government shall periodically review possibilities to minimize the export of specified hazardous wastes, etc. and possibilities to reduce the hazardous effects of specified hazardous wastes, etc. to be exported.

6. Issuance of written forms concerning confirmation, etc.

At the request of competent authorities, exporters and other persons of relevant countries, the Minister of the Environment may issue written forms verifying the

confirmation results set forth in Article 4, paragraph (3) of the Law in regard to the export of specified hazardous waste, etc. In addition, the Minister of Economy, Trade and Industry and the Minister of the Environment may, where the relevant export or import is beyond the scope of application of the Law, jointly issue written formats to verify that effect.

7. Communication public awareness and education

The Government shall endeavor to disseminate information on the accurate and smooth implementation of the Law widely to the citizens to enlighten them.