

Asian Network Workshop for Prevention of Illegal Transboundary Movement of Hazardous Wastes 12-14 December 2023, Bangkok, Thailand

Issue Paper

Session 1: Country update of regulations and implementation status of the Basel Convention: *with a focus on response to E-waste amendments*

Session Co-facilitators:

Basel Convention Regional Center for Southeast Asia (BCRC-SEA) and

Pollution Control Department (PCD), Ministry of Natural Resources and Environment, Thailand (tbc)

Background

(1) General update of country's implementation

- Mindful of the growing threat to human health and the environment posed by the transboundary movement (TBM) of hazardous wastes, the Asian Network is serving as a platform in sharing the latest information on national laws and regulations along with the situation on TBM of hazardous wastes among competent authorities in the Asian region over the years.
- As usual practice, the Session 1 of the Workshop 2023 will share update of national regulation and implementation of the Basel Convention, which would include update of import/export control of used electrical and electronic equipment (UEEE) and plastic waste which have been summarized and updated periodically by the Asian Network Secretariat.
- The general update also include update of the response to the plastic waste amendments which was adopted by the 14th Conference of the Parties to the Basel Convention (COP14). which entered into force in January 2021. Because some of the terms in these annexes are difficult to interpret, the workshops in 2020-2022 mainly discussed the status of each country's response to the plastic wastes amendments and shared some common difficulties for the implementation. The Workshop 2023 will also continue to discuss this topic, as it has significant implications for the Asian region.

(2) Response to E-waste amendments

- E-waste is one of the most problematic waste streams in Asia since TBM is significant and sometimes it causes serious environmental pollution and health damage. Therefore, since the establishment, the Asian Network has been much discussion about how to manage import/export properly and to ensure the environmentally sound management.
- The COP15, held in June 2022, adopted the following amendments to the Annexes regarding E-wastes.
 - Addition of a new entry A1181 (Annex VIII)

- Addition of a new entry Y49 (Annex II)
- Deletion of B1110 (Annex IX)

As a result, all TBMs of E-wastes, irrespective of their hazardousness, will be subject to the PIC procedure under the Basel Convention.

Under the new entries A1181 and Y49, E-waste consists of the following three categories.

- Whole Equipment
- Component (e.g., battery, switch, etc.)
- Waste from processing E-waste (e.g., fraction from dismantling or shredding of E-waste)

Y49	<p>Electrical and electronic waste:</p> <ul style="list-style-type: none"> • Waste electrical and electronic <u>equipment</u> <ul style="list-style-type: none"> – not containing and not contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic, and – in which none of the components (e.g. certain circuit boards, certain display devices) contain or are contaminated with Annex I constituents to an extent that the component exhibits an Annex III characteristic • Waste <u>components</u> of electrical and electronic equipment (e.g. certain circuit boards, certain display devices) not containing and not contaminated with Annex I constituents to an extent that the waste components exhibit an Annex III characteristic, <u>unless covered by another entry in Annex II or by an entry in Annex IX</u> • <u>Wastes arising from the processing of</u> waste electrical and electronic equipment or waste components of electrical and electronic equipment (e.g. <u>fractions</u> arising from shredding or dismantling), and not containing and not contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic, <u>unless covered by another entry in Annex II or by an entry in Annex IX</u>
A1181	<p>Electrical and electronic waste (note the related entry Y49 in Annex II)¹:</p> <ul style="list-style-type: none"> • Waste electrical and electronic <u>equipment</u> <ul style="list-style-type: none"> – containing or contaminated with cadmium, lead, mercury, organohalogen compounds or other Annex I constituents to an extent that the waste exhibits an Annex III characteristic, or – with a component containing or contaminated with Annex I constituents to an extent that the component exhibits an Annex III characteristic, including but not limited to any of the following components: <ul style="list-style-type: none"> ▪ glass from cathode-ray tubes included on list A ▪ a battery included on list A

¹ PCBs or PBBs are at a concentration level of 50 mg/kg or more in equipment, in a component, or in wastes arising from the processing of waste electrical and electronic equipment or waste components of electrical and electronic equipment.

	<ul style="list-style-type: none"> ▪ a switch, lamp, fluorescent tube or a display device backlight which contains mercury ▪ a capacitor containing PCBs ▪ a component containing asbestos ▪ certain circuit boards ▪ certain display devices ▪ certain plastic components containing a brominated flame retardant <ul style="list-style-type: none"> • Waste <u>components</u> of electrical and electronic equipment containing or contaminated with Annex I constituents to an extent that the waste components exhibit an Annex III characteristic, <u>unless covered by another entry on list A</u> • <u>Wastes arising from the processing of</u> waste electrical and electronic equipment or waste components of electrical and electronic equipment, and containing or contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic (e.g. <u>fractions</u> arising from shredding or dismantling), <u>unless covered by another entry on list A</u>
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- These amendments will enter into force on 1st January 2025, which might result in a huge impact on the import/export control in Asia where the E-waste trade is significant. Now all the Basel Parties are in the process of responding to the E-waste amendment, therefore it would be timely to share the country's status for the preparation of the national law/regulation to respond to the E-waste amendments.
- Furthermore, among new E-waste entries (Y49 and A1181), “component” and “fraction” are to be covered by Y49 or A1181 unless covered by other entry in Annex II, VIII, IX. The distinction between new Basel E-waste entries and the existing Basel entry, especially Annex IX entries which are not subject to the control under the Basel Convention, will be critical to implement the E-waste amendment on the ground. Due to the nature of complexity, there would be a room for different definition or interpretation, therefore the workshop 2023 will share country's perspective and identify the scope of new E-waste entries commonly considered by the Asian Network countries.

Structure of the Session

- The Secretariat of the Asian Network will review the discussion of the past workshops, recent trend of TBM of plastic waste and E-waste available from published statistical data. The Secretariat will also share the result of the Part 1-2 of the questionnaire survey as basic information for the discussion at the Session 1.
- The Secretariat of BRS Convention will introduce the decisions adopted at COP16 and ongoing inter-sessional works toward COP17 to be held in 2025.
- All countries will be invited to deliver a country report to this Session, which includes, but is not limited to, the following topics. It is encouraged to include the responses to Part 1-2 of the questionnaire which

was sent by the Secretariat prior to the workshop.

- Updates on national laws/regulations for the implementation of the Basel Convention including the followings
 - Update of national law/regulation on import/export of UEEE, if any
 - Update of national law/regulation on import/export of plastic waste, if any
 - Status of response to the plastic waste amendments under the Basel Convention.
- Recent trend of TBM of hazardous waste (especially trade pattern of plastic waste after the amendments entered into force on 1st January 2020).
- Status of response to E-waste amendments under the Basel Convention and type/scope of waste to be covered by the new E-waste entries (Y49 and A1181).
- Followed by the country reports by the Asian countries, the Session will also invite presentations from non Asian region (Australia and IMPEL-TFS).
- The Session will also invite recent research on plastic waste and E-waste management in Asian countries by experts (ERIA).

Point of discussion

Mainly Q&A session

Expected outcome

- Countries share updated national law and regulations for the implementation of the Basel Convention.
- The national situation for the implementation of amended annexes of the Basel Convention can be shared.
- Countries understand commonality and difference regarding the scope/categories of waste to be covered by the new E-waste entries (Y49 and A1181).
- Countries understand the latest situation of TBM of hazardous waste and other waste, particularly the trend of plastic waste and E-waste.

Session 2: Challenges, good practices, and possible approaches for improving the function of the PIC procedure

Session Co-facilitators:

Ministry of the Environment, Japan (MOEJ)

BRS Convention Secretariat (tbc)

Background

- The COP15 to the Basel Convention decided to initiate a work to improve the functioning of the PIC procedure. Furthermore, the COP16 adopted the following decision (Decision BC-16/2)
 - *Decides* to establish a small intersessional working group (SIWG) open to all Parties
 - *Invites* Parties and observers to nominate experts
 - *Invites* Parties and others to submit to the Secretariat by 30 September 2023 information on challenges, best practices, possible approaches to improve it.
 - *Requests* the lead country in consultation with the SIWG to prepare a report for consideration by the OEWG15 to be held in June 2024.
- While strict screening process for import/export notification is important, delays in the PIC process might lead to loss of business opportunities capable of ensuring the ESM. At the past workshops, there were comments on the need for cooperation among Asian countries to facilitate the PIC procedure.
- The Asian Network workshop 2022 conducted initial exchange of information and experience related to the implementation of the PIC procedures. Japan, on behalf of the Asian Network, summarized discussion relevant to the PIC at the workshop 2022 and submit it the BRS Secretariat as inputs for the discussion of the SIWG on PIC (*See Appendix*) .
- At this workshop 2023, participants will share practices taken by their countries and challenges to facilitate the PIC procedure.

Structure of the Session

- The Asian Network Secretariat will report the result of the Part 3 of the questionnaire and introduce the scope of the Session.
- The BRS Secretariat will introduce the decisions adopted by the COP16 relevant to the theme of this Session, including Strategic Framework, Electronic approaches to the notification and movement documents, and guidance developed by Implementation and Compliance Committee (ICC) on the implementation on provision related to transit, etc.
- All the countries will share challenges and good practice of the implementation of the PIC procedure and practice for facilitating it. Country reports are encouraged to include the responses to Part 3 of the questionnaire which was sent by the Secretariat prior to the workshop.
- Followed by the country reports by the Asian countries, the Session will also invite presentations from non Asian region (Australia and IMPEL-TFS).
- The Session 2 will also invite presentations from industry, especially how delay of PIC process will

cause problem for business transaction.

Points of discussion

- What are the major causes of inefficient implementation of PIC procedures and delays in the process?
- What are effective countermeasures to the problems described above, especially issues with transit countries?
- What can we do to improve the function of PIC procedure at national, regional, and global level? How can the Asian network contribute to facilitate the PIC procedure?

Expected Outcome

- Barriers to the implementation of the PIC procedure in Asia can be identified.
- Good practices of some countries for facilitation of the PIC procedure can be shared.
- Challenges associated with the PIC procedure and corresponding solutions at national, regional and global level can be mapped.
- Possible cooperative activities under the Asian Network can be identified.
- Discussion and key finding from the Session will be summarized by the Secretariat and will be submitted to the BRS Secretariat as inputs for the discussion of the SIWG if agreeable among Asian Network countries.

Appendix: Discussion on PIC at the Asian Network Workshop

1. Background

Ministry of the Environment, Japan (MOEJ) established "the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Waste²", an informal information exchange network for the competent authorities (CAs) to the Basel Convention in Asia. This network has organized an annual workshop every year since 2004. Countries that have participated in the workshop so far are Brunei Darussalam, Cambodia, China (mainland and Hong Kong SAR), Indonesia, Japan, Lao PDR, Republic of Korea, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. Basel Convention Regional Centre located in China and Indonesia have also actively contributed to the network activities. In addition, several experts from the BRS Secretariat, the Government of Australia, IMPEL-TFS, WCO, Interpol, UNEP, UNODC, academia, and industry representative (including electrical and electronic equipment manufacturers and waste treatment and recycling companies), have also participated as resource persons. Holding regional network workshops on a regular basis and maintaining face-to-face relationships is a good practice that can be demonstrated to other regions.

2. Major discussion related to PIC procedures in the past workshops

The Asian Network workshops have discussed different themes each year, and the agenda is crafted taking into account the decisions adopted by the recent Basel COPs, updated TBM trends of hazardous wastes, and/or import/export regulations newly introduced by Asian countries. The challenges in implementing the PIC procedures have often been raised, not only by the Basel officers but also by industry representatives. The workshops have also considered possible measures to address these issues. The major challenges identified by the workshop participants to date are as follows.

- The lack of contact information for competent authorities of countries involved in TBM (especially when these CAs are at the regional governmental level rather than in the national government)
- Delays in response to the notification from importing/exporting country
- The lack of or delay in response to the notification from transit countries involved in TBM
- Too much paperwork due to the lack of digitization of the PIC process
- The lack of information in English in the document provided
- Insufficient information about waste streams and disposal operations in the notification document
- Different definition/interpretation of waste/non-waste among countries
- Different definition/interpretation of hazardous/non-hazardous among countries
- Lack of communication between key domestic actors involved in TBM
- Insufficient information provided to evaluate whether ESM can be ensured in the importing country

3. Discussion related to the PIC procedures at the Asian Network Workshop 2022

The most recent Asian Network workshop was held in November 2022 in Medan, Indonesia. This workshop

² https://www.env.go.jp/en/recycle/asian_net/index.html

(workshop 2022) focused on discussing the improvement of PIC procedures in response to the decision adopted by COP14 of the Basel Convention, which initiated the process for considering the PIC. Prior to the workshop, a preliminary questionnaire survey was conducted in order to obtain basic information associated with the current status and challenges for the implementation of the PIC procedures. The key summary of the questionnaire survey and workshop discussion are summarized below.

It should be noted that the Asian Network is an informal network and the summary shown below does not reflect the official opinions and views of governments in each country. We plan to organize the workshop in December 2023 in Bangkok, Thailand and will continue to discuss this theme extensively. Any additional inputs will be shared with SIWG members as appropriate.

1) Questionnaire survey

A total of 12 countries and regions participated, of which 10 responses were received. The participating countries/regions were asked about the challenges related to the PIC procedures (multiple answers allowed). The following figure summarizes the responses from the countries.

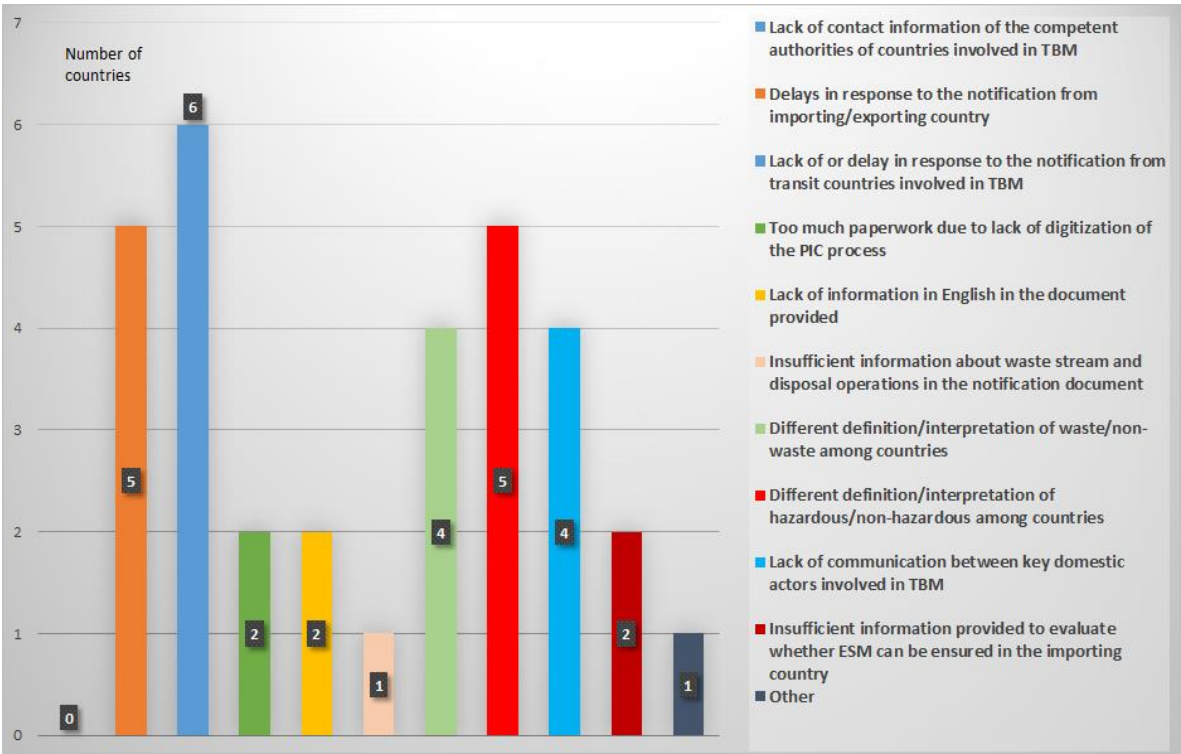


Figure 1: Challenges to implement the PIC procedures (multiple answers allowed)

The participating countries/regions were asked about the possible measures to address the issues for the implementation of the PIC procedures (multiple answers allowed). The following figure summarizes responses from the countries.

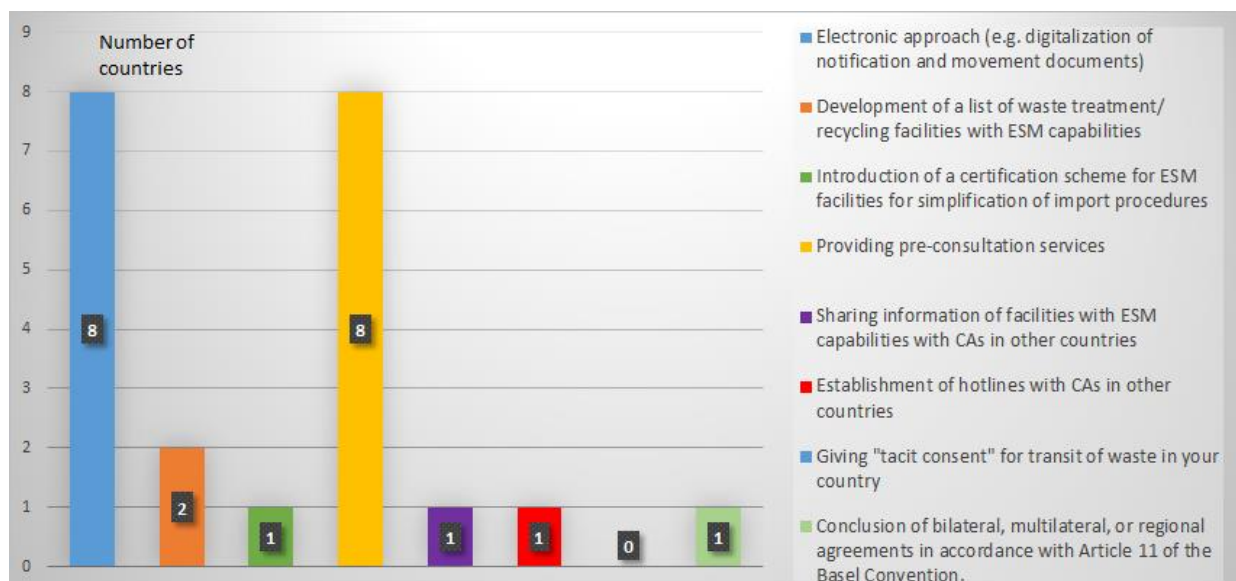


Figure 2: Efforts being made in your country to facilitate the PIC procedures (multiple answers allowed)

2) Discussion at the workshop 2022

Facilitated by the BRS Secretariat, discussions were held on improving the PIC. As a result, the following comments were provided by each country.

Exchange of information on national regulatory information related to TBMs

- Due to differences in legal systems and regulations, the regulated wastes vary across countries. Having this information available in an online database would make it easier to access essential data.
- While there is national reporting under the Basel Convention, the level of detail varies. Some countries report extensively on waste treatment facilities and the types of waste they've received, while others only provide contact information for authorities. This variation doesn't always serve as an effective mechanism for obtaining necessary information for PIC.
- Regardless, it's crucial to liaise with the relevant national authorities. Ensuring a seamless exchange of information among authorities for PIC is vital. The Asian Network serves as an ideal platform for sharing information on laws and regulations, and it also fosters regional-level exchange and friendly relationship building.

PIC issues and measures for TBMs with transit

- The following comments were made regarding the challenges and measures for PIC as a transit country.
 - Efforts are made to issue transit permits within two weeks, and if an issue arises that requires more time, an informal interim report is informally shared with the authorities of the concerned country.
 - Difference is seen in the definition of "transit". There is a distinction between "transit" and "transshipment." Transit involves a call to a port and passage through territorial waters, while

transshipment entails unloading cargo in the territory.

- The definition of transit in the Basel Convention text is too simple and unclear. Some countries define transit as the actual unloading of cargo at a port, while others define transit as merely passing through a special economic zone.
 - If transit involves the actual loading and unloading of waste in a territory, rather than just passing through territorial waters, it becomes a more environmentally risky activity and requires a detailed review (as several countries have argued).
 - Some countries prohibit unloading or allow passage on the condition that no waste is unloaded in their territory.
 - Unloading also requires detailed verification of bank guarantees, insurance, and other financial guarantees.
- The following comments were provided regarding challenges and responses to expedite PICs with transit countries from the perspective of the exporting country.
 - Proceeding with a cross-border transfer without a response from the transit country is risky. Repeatedly encouraging responses is safer due to the lack of control over the PIC process in other countries. The issue at hand is the absence of clear guidance in the Basel Convention.
 - All transit countries involved in TBM are notified, but even if one country does not respond, it can cause delays. Therefore, a 60-day deadline for a reply after notification is established, and exports are allowed even without consent (two countries operate this way).
 - A deadline for reply is also established among countries that have separately concluded bilateral and regional agreements based on Article 11.

Digitization of PICs

- Digitalization encompasses various stages, from basic email communication to the development of digital platforms and more.
- In several countries, customs trade systems are digitized, but they aren't integrated with the Basel system. Customs offices in some countries can review documents online and associate HS codes with hazardous waste, requiring permits for imports. However, a notable issue is that the PIC procedure isn't linked to the system.
- In some countries, all export permit applications are conducted electronically, but the documentation necessary for Basel PIC compliance is still done on paper.
- Some countries have fully embraced electronic processes, including the setup of an online platform for bank guarantees, streamlining submissions from major banks to save time.

Other issues

- A capacity challenge exists concerning PIC. It can be difficult for a small number of government officials to thoroughly verify all documents.
- In certain cases, the time required for export and import reviews varies depending on the situation. Some

countries have implemented measures to expedite the permitting process when documentation is complete or when imports are destined for approved facilities, among other factors.

- In the context of PICs, bank financial guarantees and insurance are mandatory. However, frequent issues arise where these guarantees and insurance, which were valid when notification documents were submitted, are close to expiration by the time they reach the authorities during the PIC process.