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**Open-ended Working Group of the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and their Disposal
Eighth meeting**

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**Matters related to the work programme of the
Open-ended Working Group for 2012–2013:
scientific and technical matters:
follow-up to the Indonesian-Swiss country-led initiative:
developing guidelines for environmentally sound management**

**Draft framework for the environmentally sound management of
hazardous wastes and other wastes**

Note by the Secretariat

Information about the activities of the technical expert group to develop a framework for the environmentally sound management of hazardous wastes and other wastes is contained in document UNEP/CHW/OEWG.8/5. The draft framework developed by the technical expert group is set out in the annex to the present note. It is reproduced as received, without formal editing.

* UNEP/CHW/OEWG.8/1.

Annex

Draft framework for the environmentally sound management of hazardous wastes and other wastes

Draft of 15 August 2012

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Glossary

BAT/BEP	Best Available Techniques / Best Environmental Practices
BCRC	Basel Convention Regional and Coordinating Centres for Training and Technology Transfer
BREF	European Union BAT Reference Document
CPE	Core Performance Element
EMAS	European Eco-Management and Audit Scheme
EMS	Environmental Management System
EPA	Environmental Protection Agency
EPR	Extended Producer Responsibility
ESM	Environmentally Sound Management
EU	European Union
IMPEL	EU Network for the Implementation and Enforcement of Environmental Law
INECE	International Network for Environmental Compliance and Enforcement
INTERPOL	International Criminal Police Organization
IPPC	Integrated Pollution Prevention and Control
ISO	International Organisation for Standardisation
OECD	Organisation for Economic Cooperation and Development
OH&S	Occupational Health and Safety
OHSAS	Occupational Health and Safety Assessment Series
PACE	Basel Convention Partnership for Action on Computing Equipment
PIC	Prior Informed Consent
POPs	Persistent Organic Pollutants
SME	Small and Medium Sized Enterprise(s)
UNEP	United Nations Environment Programme

Definitions

Due Diligence: Due diligence is the level of judgement, care, prudence, determination, and activity that would be reasonably expected of a person under particular circumstances.

Environmentally sound management: Environmentally sound management means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health or environment against the adverse effects which may result from such wastes.

Background

1. The tenth meeting of the Conference of the Parties (by section B of Decision BC-10/3 on the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention) decided to complete the development of a framework for the environmentally sound management (ESM) of hazardous wastes and other wastes, including consideration of ways in which the framework and its elements might be linked to the issue of transboundary movement of hazardous and other wastes taking into account subparagraph 2(d) of Article 4¹ of the Basel Convention.
2. This work was accomplished by a technical expert group comprised of 30 experts nominated by Parties based on equitable geographical representation of the five regional groups of the United Nations. The group was open to observers and could call upon additional experts as needed. The group met [x] times: initially in April 2012 in Tokyo, Japan, at which time preliminary discussions on the framework took place and the group established its working modalities. Through electronic means and teleconferences, the group was able to complete a first draft of the framework for consideration by the eighth meeting of the Open-ended Working Group which met in Geneva, Switzerland, in September 2012. A second meeting of the group is scheduled to be held back-to-back with this meeting, during which the draft framework was further elaborated. [Further information to be inserted once group completes its work.]
3. In the context of this framework, ESM is considered as defined within Article 2 of the Basel Convention. That is ““Environmentally sound management of hazardous wastes or other wastes” means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes.”
4. The technical expert group acknowledged the close linkages between ESM and transboundary movements of hazardous wastes and other wastes. Countries concerned in a transboundary movement of wastes, in particular States of export, should ensure that the movement only takes place if the wastes will be managed in an environmentally sound manner, and in accordance with the other obligations of the Basel Convention. Enforcement is a key element when seeking to ensure ESM of wastes.

Rationale and identification of the problem

5. As recognised within section B of decision BC-10/3, adopted by the tenth meeting of the Conference of the Parties, harm to human health and the environment continues to be caused throughout the world by inadequate waste management procedures. This also stressed the critical importance [of prevention and minimization of hazardous wastes and other wastes. It is acknowledged that existing activities have been undertaken by Parties and others to ensure ESM of hazardous wastes and other wastes, while further dissemination of these activities is necessary. Furthermore, a more systematic and comprehensive effort is needed to improve guidance on the ESM of wastes.
6. In the course of the discussions of the technical expert group, it became apparent that ESM is understood and implemented differently amongst Parties within the context of the Convention. Although implementation of the Convention requires application of its provisions in a consistent manner, flexibility is required as countries as well as facilities face different realities.
7. This framework has been developed in order to address these differences. It is intended to provide a practical guide to Parties and other stakeholders involved in waste management to ensure ESM of hazardous wastes and other wastes. In particular, the framework aims to guide Parties in implementing the environmentally sound management of wastes in a systematic, consistent and comprehensive manner. The framework is intended as a reference tool for stakeholders participating in the management of such wastes, including government, industry, intermediaries and waste management facilities.
8. In developing the framework, it is acknowledged that much time, effort and a considerable amount of resources have already been allocated to support capacity building, infrastructure development and guidance on ESM. This is both within the context of work of the Basel Convention and in other fora. The work of the technical expert group is not intended to duplicate previous efforts or existing guidance. The work does nonetheless endeavour to update previous efforts or existing guidance where necessary. The present work on the framework strives and will continue to strive to ensure consistency and compatibility with previous efforts, to the extent practicable, to promote synergies. Consequently, the framework includes a list of existing resource documents, so as to support stakeholders as an initial reference and indicate where further guidance may be found. It is the intention to keep this list

¹ Article 4.2. “Each Party shall take the appropriate measures to:...

d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement; ...”

periodically updated to include new guidance documents emerging, thus ensuring a fully up-to-date reference point. [FURTHER INFORMATION AND INPUT IS TO FOLLOW FOR THIS SECTION]

Guiding Principles

9. A systematic and comprehensive framework for the ESM of hazardous wastes and other wastes has been developed taking into account a number of existing principles set out in documents relating to ESM such as the 1994 Guidance Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes subject to the Basel Convention, adopted by decision II/13 of the Conference of the Parties², the Basel Declaration on Environmentally Sound Management adopted by decision V/1 of the Conference of the Parties, as well as other applicable principles including sustainable production and consumption, internalisation of external costs, pollution prevention, resource efficiency and the focus on priority waste streams identified in the Strategic Framework. It is recognised that waste prevention is the preferred option in regard to waste – by not generating waste, we can eliminate the need to handle, transport, treat and dispose of waste, the associated risk and avoid having to pay for these services. Greater attention to prevention by Parties will help to ensure a minimisation of the need for ESM facilities at all stages, including the disposal stage.

10. Recalling paragraph 3(a) of the Annex to decision BC-10/2 on the Strategic Framework for the implementation of the Basel Convention for 2012-2021³, the development of the framework for ESM was guided by the waste management hierarchy (prevention, minimization, reuse, recycling, other types of recovery, including energy recovery, and final disposal). This hierarchy should be operationalised so that resources are allocated according to the hierarchy. The framework should encourage re-use, recycling and recovery techniques that deliver best overall environmental outcomes, in accordance with best environmental techniques (BETs) and best environmental practices (BEPs) and life-cycle thinking. To this end, the application of ESM principles should not create unnecessary regulatory, administrative, financial or other barriers to the reuse, recycling or recovery of wastes.

11. Recalling, as well, paragraph 3(b) of the Annex to decision BC-10/2, the development of the framework for ESM has used the waste management policy tools such as: sustainable use of resources; recognition of waste as a resource (when appropriate) ; integrated waste management; life-cycle approach; polluter-pays principle; extended producer responsibility (EPR); precautionary principle; proximity principle; partnerships, cooperation and synergies; and sustainable consumption and production. The framework recognizes and applies this policy recommending Parties to adopt the same policy in national and / or local plans for waste management.

12. The framework must be practical, technical, implementable and useful to all stakeholders. It is intended to give practical guidance to each set of stakeholders as to what ESM means in practice and tools they can use to implement ESM in their activities. Furthermore, it should take into account the obligations of each of these stakeholders, including reference to requirements on and actions by those stakeholders. It needs to be dynamic and adaptable as the challenges associated with waste management are constantly evolving through the emergence of new ideas and technologies. Such a framework would furthermore support and promote further dissemination of existing activities undertaken by Parties and others to ensure ESM of hazardous wastes and other wastes, pursuant to section B of decision BC-10/3.

13. The framework is comprised of three broad elements, the first of which outlines what determines the environmentally sound management of wastes. This determination concerns all relevant levels, including government, waste carriers, waste management facilities and other waste generators. The second element includes the tools and instruments [required][frequently used] to make the environmentally sound management of wastes operational. Finally, the third element encompasses indicators for the verification of performance.

14. The framework should be analysed, reviewed, adjusted as necessary and ultimately adopted by a decision of the Conference of the Parties.

² This document is referred to in the text of decision II/13 as the ‘Framework Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes Subject to the Basel Convention’.

³ Decision BC-10/2: Strategic Framework for the implementation of the Basel Convention, Annex, section II: “3. The following guiding principles will be applied:

(a) Recognize the waste management hierarchy (prevention, minimization, reuse, recycling, other recovery including energy recovery, and final disposal) and, in so doing, encourage treatment options that deliver the best overall environmental outcome, taking into account life-cycle thinking...”

Element I: What determines ESM?

15. There is a wealth of existing resources which outline what determines the environmentally sound management of wastes. The present framework attempts to present these resources in a more systematic and comprehensive manner, so as to facilitate a consistent determination of ESM. The framework also aims to identify those instruments, tools and resources that have yet to be developed and support their development.

16. Drawing on previous efforts and resources primarily from the Organization for Economic Cooperation and Development (OECD)⁴, the Basel Convention⁵ and other ESM-related sources, a clear picture of what determines ESM at both the national and facility levels is developed. These requirements are intended to provide a practical guide as to the steps that should be adopted to ensure ESM of wastes.

Governments

17. To ensure that waste is managed in an environmentally sound manner and consistently within their respective domestic settings, governments should ensure the provision and incorporation of certain policies and elements into their legislative and regulatory frameworks, policies, infrastructure and institutions. The resources mentioned in paragraph 15 above include various guidance to governments as to how they can achieve this. At the national level, governments should:

- i. ensure that a national policy, supported by an integrated regulatory and enforcement infrastructure and associated with relevant environmental principles, is in place which:
 - at an appropriate governmental level, puts in place legal requirements such as national measures and mechanisms to implement and enforce the provisions of relevant international and/or regional instruments e.g. national legislation and regulations⁶. This should also apply international environmental guiding principles and policy tools;
 - develops clear legislation defining waste and hazardous waste, in accordance with any common understanding reached among Parties to the Basel Convention in this respect;
 - at an appropriate governmental level, includes a system to support the waste management hierarchy, such as authorizations, licenses, permits and/or standards/legally binding rules, requirements for environmental insurance and after care;
 - includes policies, tools, practices and instruments that facilitate the efforts of appropriate authority/ies⁷ to monitor the implementation and ensure compliance of waste management activities, including at the facility and citizen level, with applicable national, regional and international legislation, rules and regulations⁸;
 - in cases of non-compliance where rules or conditions have not been implemented, includes provision to allow prompt, adequate and effective actions to be undertaken, including sanctions and penalties;
 - [incorporates policy to move towards internalization of environmental and human health costs and benefits in waste management⁹];

⁴ Such as the Organization for Economic Cooperation and Development Recommendation of the Council on the Environmentally Sound Management of Waste of 9 June 2004 - C(2004)100, amended on 16 October 2007 - C(2007)97 and the Guidance manual for the Implementation of the OECD Recommendation C(2004)100 on Environmentally Sound Management (ESM) of Waste, 2007.

⁵ Including the Guidance document on the preparation of Technical Guidelines for the Environmentally Sound Management of Wastes subject to the Basel Convention adopted by decision II/13 of the Conference of the Parties in 1994, the Guidance on developing national and/or regional strategies for the environmentally sound management of hazardous wastes (1995) and the waste stream specific technical guidelines that have been developed and adopted under the Basel Convention and the Environmentally Sound Management Criteria Recommendations developed by the Basel Convention Partnership for Action on Computing Equipment, Approved by the PACE Working Group on 9 March 2009 and revised on 15 March 2011.

⁶ Guiding principles and policy tools available to assist countries in developing and implementing legislation include the Strategic Framework for the implementation of the Basel Convention 2012 – 2021; Basel Convention Model National Legislation; Basel Convention Guide to the Control System; Basel Convention Checklist for the National Legislator; Stockholm Convention on Persistent Organic Pollutants Guide to Developing National Legal Frameworks.

⁷ Includes Basel Convention competent authorities and other relevant authorities.

⁸ For example, auditing schemes and training for competent authorities.

⁹ In many cases, environmental and human health costs resulting from waste management are not fully reflected in the financial costs of waste management. These external costs may vary considerably according to factors such as local conditions, or the nature of the waste. The financial costs of waste management may therefore be less than total social costs with the difference being borne by other economic operators. As long as this is the case, waste generators and

- supports the development and implementation of an environmental liability and compensation for damage regime for facilities that carry out dangerous or potentially dangerous activities to ensure adequate measures upon definite cessation of activities and with a view to preventing and remedying potential environmental damage;
- ii. foster continual improvement within the waste management sector, which includes:
- development and implementation of measures to ensure facilities operate according to appropriate BEPs and BETs, in a step-wise manner, which take into consideration the protection of the environment and the technical, operational and economic feasibility of doing so, while working toward continually improving environmental performance;
 - encouragement of information exchange between producers, waste generators, waste managers and authorities, in order to foster waste prevention, optimize recovery and recycling operations and minimize quantities as well as hazardousness of waste destined for disposal– some examples of national waste prevention programmes are set out in Annex 2;
 - [ALT.1:consideration of the provision of incentives e.g. tax and economic incentives and/or relief measures (such as less frequent inspections , or audits) for facilities that [consistently achieve] or [exceed] ESM, on the basis of the key performance elements outlined for the achievement of ESM at the facility level; and disincentives for non-compliance with regulations, market awareness including instruments to address market failures and barriers, soft loans for investment in re-conversion, innovation, BETs and equipment] [ALT. 2: consideration of the provision of incentives (e.g. economic incentives) to enhance and/or relief measures for facilities that [achieve][exceed] environmentally sound management, on the basis of the key performance elements outlined for the achievement of ESM at the facility level;]
 - provision of incentives to take part in environmentally sound reduction, reuse and recycling schemes and the development of measures to increase the waste reduction, reuse and recycling rates, considering sustainable management of materials;
 - development of incentives to recognise environmental stewardship in the private sector and foster the development of voluntary certification programmes consistent with the Basel Convention, associated decisions of its Conference of the Parties, technical guidelines, relevant national implementing legislation, regulation and other measures;
 - implementation of the relevant technical guidance and guidelines adopted by the Basel and Stockholm Conventions, as well as other international organizations¹⁰ for ESM of waste, such as the inclusion of such technical guidance and guidelines within legal and regulatory frameworks;
- iii. foster the development of supportive infrastructure for appropriate waste management technologies and facilities that support the waste management hierarchy and ESM.
- iv. Be transparent and require transparency to the public subject to appropriate protection of confidential information, for example, all documents connected with waste licences or permits should be publicly accessible – see as an example the Irish Environmental Protection Agency website¹¹.
- v. Establish effective and meaningful consultation mechanisms or partnerships with key stakeholders: private sector (manufactures, designers, waste managers), workers, communities affected, NGOs, scientific, regional and international organizations and academia and develop opportunities for technology transfer and technical assistance (enhancing industry support for knowledge-sharing and capacity building).

By adopting measures such as those detailed above, governments can support implementation of ESM in a consistent manner, as well as dissemination of information regarding existing activities to support ESM. Consequently, government level action could further encourage industry initiatives towards greater ESM of wastes.

managers may not have sufficient incentive to adopt an appropriate level of waste management within their facilities. In the same way, any environmental benefits should be internalised into waste management decisions at the facility level. (OECD 2007)

¹⁰ Basel Convention technical guidelines are made available on the Basel Convention website www.basel.int; Stockholm Convention technical guidelines are available at www.pops.int.

¹¹ <http://www.epa.ie> . The material contained on this website relating to licence applications is made publicly available by the EPA in performance of its statutory functions and under requirements of the European Union Directive on Access to Information on the Environment.

Waste Management Facilities

18. Waste management facilities should meet certain basic requirements to ensure ESM and commit to continual improvement in their operations¹². These requirements should implement the Basel Convention, relevant decisions of its Conference of the Parties and technical guidelines in a consistent manner, whilst remaining sufficiently flexible to take into account national contexts.

19. The whole life cycle of the facility should be covered, from planning and construction of a facility to its operation and subsequent dismantling or site remediation at end of life. As such, a facility should have the following, which should meet the approval of the competent authorities concerned:

- i. appropriate design and location, taking into account potential risks to the environment, including environmentally sensitive areas;
 - an environmental and social impact study should be conducted and approved by the appropriate authorities before a facility's location is determined and construction takes place;
- ii. an applicable Environmental Management System¹³ in place, which:
 - describes, assesses and reviews the design, construction, operation, monitoring, management and maintenance of the facility and which would be periodically reviewed;
 - demonstrates compliance with applicable legislation and regulations;
 - demonstrates commitment of management to integrate a systematic and consistent approach to achieve ESM in all aspects of facility operations;
 - includes provisions to support transparency and verification of standards being implemented by the facility, subject to appropriate protection for confidential business information, which can help assure the public that operations and activities are compatible with ESM. Such provisions may include third party audits and inspections;
- iii. sufficient measures in place to safeguard occupational health and safety and protection of the environment, including:
 - measures to control emissions taking into account, for example, emission limit values to air, water and soil;
 - waste acceptance and handling criteria including measures to ensure due diligence and proper downstream management of wastes and residuals;
 - appropriate actions to address significant actual and/or potential risks to public and worker health and safety and the environment, based on an environmental risk assessment, and to correct identified deficiencies, including contingency arrangements in the event of plant breakdown or accidental spillages;
- iv. an adequate and transparent monitoring, recording, reporting and evaluation programme which covers:
 - relevant legal requirements, including key process parameters;
 - compliance with applicable safety requirements;
 - effluents and emissions;
 - records of incoming, stored and outgoing waste.
- v. an appropriate and adequate training programme for personnel, to ensure employees have an appropriate level of awareness, competency and training with respect to the effective management of occupational risks;
- vi. an adequate emergency plan and response mechanism;
- vii. an adequate plan for closure and after-care.

¹² For source information, see the Core Performance Elements for the Environmentally Sound Management of Waste, Annex I of the OECD Recommendation on Environmentally Sound Management of Waste - C(2004)100 of the Council On The Environmentally Sound Management (ESM) of Waste, as amended by C(2007)97. <http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=51&InstrumentPID=48&Lang=en&Book=False>

¹³ For example, see environmental management system guideline published by the Bureau of International Recycling (BIR): Tools for Environmentally Sound Management (2006) (<http://www.bir.org/assets/Documents/Public/GuideESM.pdf>)

Carriers

20. Persons who carry out or who arrange the transport (including dealers and brokers) of hazardous wastes or other wastes also need to ensure that during the period in which the wastes are in their possession and/or under their control, they are managed in an environmentally sound manner. Furthermore, the carrier can play a key role by ensuring, as far as possible, that the wastes will be managed in an environmentally sound manner by the importer or disposer.

21. Waste carriers shall request assurances from the relevant stakeholders¹⁴ that the waste will be managed in an environmentally sound manner and that the generator has incorporated the principles mentioned in paragraph 23 below into their activities. Any irregularities should be notified to the competent authorities in the countries concerned.

Other waste generators

22. Hazardous and other wastes generated in activities producing goods and providing services that regularly generate hazardous wastes and other wastes also need to be managed in an environmentally sound manner. To ensure a comprehensive approach to the environmentally sound management of hazardous and other waste, such activities are included within guidance through this framework.

23. Waste generators involved in these activities should incorporate the following when implementing their activities:

- Principles of prevention and minimization;
- Integrated life cycle;
- Extended Producer Responsibility;
- Innovation in production and delivery of services;
- Other relevant principles.

Their activities should aim to prevent and minimise waste generation; encourage BETs and BEPs; increase use of and reference to environmental management systems and internalization of costs.

24. Waste generators are responsible for ensuring they use and refer to the highest scientific and technical knowledge when undertaking their activities that generate waste. In doing so, they act to minimise that the hazardous wastes and other wastes generated, by ensuring research, investment in design, innovation and development of new products and processes that use fewer resources, energy and that reduce, substitute or eliminate the use of hazardous materials. These waste generators should aim for production that prioritizes the use of recovered or recycled materials; enables and encourages recovery of energy and resources at the end of a product's useful life; and avoids additional pollution burden from waste management of end of life products.

25. Other waste generators should must internalize in their production processes and policies:

- Waste management hierarchy: prevention, minimization, reuse, recycling, other types of recovery, including energy recovery, and final disposal.
- Waste policy tools: sustainable use of resources, recognition of waste as a resource (when appropriate), integrated waste management, life-cycle approach, polluter-pays principle, extended producer responsibility (EPR), precautionary principle, proximity principle, partnerships, cooperation and synergies and sustainable consumption and production;
- Cleaner or greener design and production by implementing industrial conversion processes when necessary;
- (Prior to placement on the market) Research, design and innovation in production and delivery of services especially impact-assessment at end-of-life: integrated design for reuse, repair, disassembling (when appropriate), recovery and recycling;
- Inventory generation, storage and disposal of hazardous wastes and other wastes, disclosing this information and that related to the use of hazardous chemicals and substances, their risks in products and wastes and their management inside and outside the facility;
- Undergo third-party environmental certification procedures.

The involvement and engagement of stakeholders at all levels, as mentioned above, is essential to ensure a more systematic and comprehensive effort to improve guidance on the environmentally sound management of wastes and ultimately to protect human health and the environment.

¹⁴ This could be the exporter, generator, importer, disposer or agent of such a person/entity such as a dealer or broker.

Element II: Tools and instruments to operationalize ESM

26. Once ESM is defined, tools and instruments are then required to operationalize these concepts. Tools and instruments to operationalize ESM should, where appropriate, be tailored to address specific waste streams rather than wastes in general. These might include a combination of legislative and regulatory tools, guidelines and/or codes of practice, certification schemes, voluntary agreements and schemes, mechanisms for cooperation at the international, regional and national levels, training and awareness programmes and incentive schemes. Such tools and instruments are briefly outlined below and expanded upon, as appropriate, in the Annexes to the framework [TO BE DEVELOPED FURTHER]. Certain of these instruments have yet to be developed.

i. Legislation

- Different variations of model legislation to implement the waste management hierarchy and assist governments in making ESM operational. Such model legislation could include provisions on: responsibilities of key stakeholders¹⁵; technical and organizational requirements; occupational health and safety and environmental requirements; environmental liability and insurance; extended producer responsibility requirements; permitting and licensing schemes; civil and criminal penalties for non-compliance;
- Programmes to assist in the development of legislation to implement the Basel Convention, associated decisions of its Conference of the Parties and technical guidelines at the national level.

ii. Guidelines / Codes of good practice

- Compilation and review of existing guidelines related to or dealing with ESM¹⁶ at the international level: identifying gaps and/or updates that may be necessary;
- Plain-language guidelines to accompany legislation and regulation to improve the knowledge and understanding of key stakeholders involved in making ESM operational;
- Guidelines to implement the waste management hierarchy in policy at national or regional level;
- Guidelines to elaborate requirements of licensing/permit schemes for ESM which may be linked to the Prior Informed Consent procedure.
- Checklists for self-certifications and control.
- Checklists for inspectors.

iii. Voluntary Certification Schemes

- Norms and standards¹⁷ created by industry, non-governmental or standards bodies, by which certification is granted following audits;
- Private-sector led standards development¹⁸ and/or government-led standards development;
- Third-party [auditing][certification] vs. self-certification or second-Party schemes.[FURTHER INFORMATION AND INPUT IS TO FOLLOW FOR THIS BULLET POINT]

iv. Voluntary agreements and schemes (non-legislative)

- Agreements between bodies – e.g. sub-regional or local authorities and industry;
- Voluntary commitments by industry to undertake certain ESM activities;
- Schemes and voluntary agreements to ensure compliance with provisions regarding ESM (e.g. Extended Producer Responsibility, Responsible Care, take back schemes).

vi. [Eco-labelling and awards to promote environmental design

[TO BE DEVELOPED FURTHER]]

¹⁵ Including waste generators/managers/holders/traders.

¹⁶ See <http://www.basel.int> and <http://www.pops.int> for further details of existing guidelines related to or dealing with ESM.

¹⁷ With links to Element 1: Categories that determine ESM.

¹⁸ i.e. through a standardisation body - e.g. ISO, EMAS, OHSAS, etc.

- vii. Mechanisms for cooperation (international, regional and national)
 - Via established enforcement networks – e.g. IMPEL, Interpol, INECE and the Asian Network, industry associations, civil society, BCRCs and Public Partnerships – e.g. the Partnership for Action on Computing Equipment;
 - Ensure inter-agency cooperation to achieve/ensure ESM (e.g. between national or local Basel Convention implementing and enforcement agencies).
- viii. Training, awareness-raising and compliance promotion
 - Awareness-raising to encourage ESM activities and communication strategies e.g. making communities, industry, individual facilities, etc. aware of economic and other benefits of ESM;
 - Creation of enabling environment for technology transfer;
 - Programmes for personnel and operator training;
 - Scientific research for increased understanding and awareness.

Element III: Indicators for the verification of performance

27. The final element of the ESM framework includes occupational health and safety and environmental indicators for the verification of performance, which might include:

At the international level

- Number of Parties that have transmitted national reports in accordance with Article 13 of the Basel Convention;
- Number of Parties that have developed and transmitted other reports in accordance with other related multilateral environmental agreements e.g. national implementation plans and national action plans developed and implemented in accordance with the Stockholm Convention;
- Number of Parties that develop and execute audits regarding national implementation of the Basel Convention and other relevant multilateral environmental agreements e.g. Rotterdam and Stockholm Conventions.

At the government level:

- Number of governments that have put in place legal instruments or requirements to implement and enforce the provisions of the Basel Convention, decisions of its Conference of the Parties and technical guidelines, as well as those of other relevant international and/or regional instruments;
- Number of governments that have developed and implemented national strategies, plans, programmes or systems to support the waste management hierarchy;
- Number of governments that keep a record of annual hazardous and other waste generation and efforts and mechanisms to reduce generation over time;
- Number of schemes to foster continual improvement within the waste management sector, including amongst waste carriers;
- Number of governments that have developed measures to ensure facilities operate according to appropriate best available techniques and best environmental practices;
- Number of governments that have developed measures to encourage information exchange between producers, waste generators, waste managers and authorities;
- Number of governments that have developed measures to provide incentives and implement relevant technical guidance and guidelines adopted by the Basel Convention;
- Number of governments that have developed occupational health and safety, and environmental indicators for verification of performance;
- Number of governments that have implemented systems for measuring, monitoring, recording and reporting to assess progress in environmentally sound management of wastes;
- Number of governments who participate or facilitate participation by the relevant personnel in Networking and information exchange among relevant states and networks about ESM - e.g. IMPEL, Interpol, INECE and the Asian Network, etc.

- Number of governments that develop and execute training programmes for staff involved;
- Government records that track enforcement actions and prosecutions based on national legal, administrative and other measures to implement and enforce the Basel Convention provisions, including measures to prevent and punish conduct in contravention of the Convention.

At the carriers' level:

- Proportion of initiatives developed and implemented by carriers to support government verification of ESM of wastes.

At the waste management facilities' level:

- Proportion of facilities in compliance with relevant national legislative and other measures to ensure ESM of hazardous wastes and other wastes;
- Proportion of facilities undertaking and submitting environmental and social impact studies for approval by appropriate authorities before a facility is constructed;
- Number of waste management facilities that have developed and implemented an applicable Environmental Management System e.g. ISO 14001 or that have obtained the requisite government permissions;
- Number of measures developed and implemented to safeguard occupational health and safety and protection of the environment;
- Proportion of industry initiatives to support regular inspections and enforcement activities and/or initiatives by government stakeholders
- Proportion of waste management facilities submitting appropriate audits (internal and external);
- Proportion of waste management facilities submitting to periodic maintenance.
- Proportion of industries that implement waste minimization programmes;
- Proportion of waste management facilities that develop and execute training programmes for staff involved, or that are supervised by technical manager in charge of the technical work;
- Proportion of waste management facilities with emergency plans and response mechanisms;
- Proportion of waste management facilities that develop and submit to the appropriate authorities plans for closure and after-care.
- Proportion of other waste generators incorporating relevant principles into their activities;
- Proportion of activities that encourage use of best available techniques and best environmental practices;
- Proportion of activities that increase use of and reference to environmental management systems and internalization of costs.

Annex 1

Resource documents

Element I: Categories that determine ESM

Outputs of Contact Group 1: Categories that determine what ESM

<http://www.basel.int/Implementation/LegalMatters/CountryLedInitiative/OutcomeofCOP10/DevelopingguidelinesforESM/TechnicalExpertGroup/tabid/2670/Default.aspx>

Requirements at the national and facility levels:

Recommendation of the Council on the Environmentally Sound Management of Waste of 9 June 2004 - C(2004)100 amended on 16 October 2007 - C(2007)97, Organization for Economic Cooperation and Development (Annex I includes the Core Performance Elements for the ESM of Waste)

<http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=51&InstrumentPID=48&Lang=en&Book=False>

Guidance manual for the Implementation of the OECD Recommendation C(2004)100 on Environmentally Sound Management (ESM) of Waste, 2007

<http://www.oecd.org/dataoecd/23/31/39559085.pdf>

Guidance document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes subject to the Basel Convention, 1994

<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/AdoptedTechnicalGuidelines/tabid/2376/Default.aspx>

Guidance on developing national and/or regional strategies for the environmentally sound management of hazardous wastes, 1995

<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/AdoptedTechnicalGuidelines/tabid/2376/Default.aspx>

Environmentally Sound Management Criteria Recommendations for the Partnership for Action on Computing Equipment, 2009

<http://archive.basel.int/industry/compartnership/docdevpart/aipgReportESMCriteriaRecommendationsn-2011-03-15.pdf>

Study on Environmentally Sound Management of Hazardous Wastes in Asia, 2012

<http://www.basel.int/Implementation/LegalMatters/CountryLedInitiative/OutcomeofCOP10/DevelopingguidelinesforESM/TechnicalExpertGroup/tabid/2670/Default.aspx>

Element II: Tools and instruments to operationalize ESM

Outputs of Contact Group 2: Tools and instruments to make ESM operational

<http://www.basel.int/Implementation/LegalMatters/CountryLedInitiative/OutcomeofCOP10/DevelopingguidelinesforESM/TechnicalExpertGroup/tabid/2670/Default.aspx>

PAS 99 (Publicly Available Specification) integrated management system requirements specification

<http://www.bsigroup.co.uk/en/Assessment-and-Certification-services/Management-systems/Standards-and-Schemes/PAS-99/>

Tools available to assist countries in developing legislation:

Basel Convention Model National Legislation

<http://www.basel.int/Implementation/LegalMatters/LegalFramework/Tools/tabid/2750/Default.aspx>

Basel Convention Guide to the Control System

<http://www.basel.int/TheConvention/Publications/GuidanceManuals/tabid/2364/Default.aspx>

Basel Convention Checklist for the National Legislator

<http://www.basel.int/Implementation/LegalMatters/LegalFramework/Tools/tabid/2750/Default.aspx>

Guidelines / Codes of good practice:

Waste stream specific technical guidelines that have been developed and adopted under the Basel Convention

<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/AdoptedTechnicalGuidelines/tabid/2376/Default.aspx>

Stockholm Convention on Persistent Organic Pollutants Guide to Developing National Legal Frameworks

<http://chm.pops.int/Convention/LegalMatters/LegalMattersPublications/tabid/2245/Default.aspx>

The Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes, 1987

<http://www.basel.int/Implementation/LegalMatters/CountryLedInitiative/OutcomeofCOP10/DevelopingguidelinesforESM/TechnicalExpertGroup/tabid/2670/Default.aspx>

Guidelines on best available techniques and provisional guidance on best environmental practices

<http://chm.pops.int/Implementation/BATBEP/Guidelines/tabid/187/Default.aspx>

Guidance on development of NIPs

<http://chm.pops.int/Implementation/NIPs/Overview/tabid/565/Implementation/NIPs/Guidance/tabid/587/language/en-US/Default.aspx>

Best Available Techniques Reference Documents (BREF), European Commission

<http://eippcb.jrc.es/reference/>

UNEP Division of Technology Industry and Economics International Environmental Technology Centre Publications

<http://www.unep.or.jp/ietc/SPC/publications.asp>

Standardisation/certification schemes:

ISO Standards

<http://www.iso.org/iso/home.html>

ISO 14001 Standard

http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm

OHSAS 18001 Occupational Health and Safety

<http://www.bsigroup.com/en/Assessment-and-certification-services/management-systems/Standards-and-Schemes/BSOHSAS-18001/>

EU Eco-Management and Audit Scheme (EMAS)

http://ec.europa.eu/environment/emas/index_en.htm

Tools for Environmentally Sound Management, Bureau of International Recycling (2006)

(<http://www.bir.org/assets/Documents/Public/GuideESM.pdf>)

E-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment, Basel Action Network,

<http://e-stewards.org/certification-overview/>

Recycling Industry Operating Standard (RIOS)

<http://www.ISRI.org/RIOS>

Responsible Recycling Practices for Use in Accredited Certification Programs, R2Solutions

<http://www.r2solutions.org/>

Element III: Indicators for the verification of performance

Outputs of Contact Group 2: Tools and instruments to make ESM operational

<http://www.basel.int/Implementation/LegalMatters/CountryLedInitiative/OutcomeofCOP10/DevelopingguidelinesforESM/TechnicalExpertGroup/tabid/2670/Default.aspx>

Annex 2

Examples of national waste prevention programmes

1. Ireland

Ireland has developed and adopted a national **Waste Prevention Programme which is being lead by the EPA**. A National Waste Prevention Committee provides strategic direction for the EPA in implementing the programme. It is a broad stakeholder group including;

- Government Departments
- Business and industry stakeholders;
- Enterprise agencies and bodies;
- Consultants and professional and representative bodies;
- Local and national authorities;
- Non-governmental organizations.

The Programme aims to bring about behavioural and technological change through resource efficiency assistive programmes, namely:

- National Waste Prevention Programme
(www.nwpp.ie)
 - Green Business Programme (www.greenbusiness.ie)
 - Green Hospitality Programme (www.ghaward.ie)
 - Green Healthcare Programme
 - Packaging Waste Prevention Programme
 - Smile Waste Exchange, etc...
- Cleaner Greener Production Programme
(www.cleanerproduction.ie)

2. Japan

[To be provided for second meeting of the TEG]

3. Argentina

Argentina has issued Law 25,675 on its national environmental policy that includes in Article 4 environmental principles such as the prevention principle and precautionary principle; polluter pays principle; sustainability principle. Likewise, any new rule relating to the production of goods and waste management (electrical and electronic equipments, tires, for example) incorporates the waste management hierarchy and the EPR principle.