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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Fifteenth meeting**

Geneva, 26–30 July 2021 and 6–17 June 2022*

Agenda item 4 (a) (iii)

**Matters related to the implementation of the Convention:
strategic issues: development of guidelines for
environmentally sound management**

Developing guidelines for environmentally sound management

Addendum

Practical manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements

Note by the Secretariat

At its fifteenth meeting, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal adopted, in decision BC-15/5 on developing guidelines for environmentally sound management, a practical manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements, on the basis of document UNEP/CHW.15/5/Add.1. The text of the practical manual, as adopted, is set out in the annex to the present note. The present note, including its annex, has not been formally edited.

* In accordance with decisions BC-15/1, RC-10/2 and SC-10/2 of the conferences of the Parties to the Basel, Rotterdam and Stockholm conventions, the 2021/2022 meetings of the conferences of the Parties are being held in two segments: an online segment held from 26 to 30 July 2021 and a face-to-face segment to be held from 6 to 17 June 2022 in Geneva.

Annex

Practical manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements

I. Introduction

1. In accordance with the Basel Convention, a Prior Informed Consent (PIC) procedure must be followed for transboundary movements (TBM) of hazardous wastes and other wastes. This means that planned TBMs must be notified in advance by the exporter to all competent authorities of the States concerned and can only be undertaken if all competent authorities have given their consent to the movement. In addition, it must be ensured that the wastes will be managed in an environmentally sound manner.

2. The responsibilities of the stakeholders involved in such a TBM (in particular, competent authorities, exporters, generators and disposers) are outlined in the Basel Convention. From a legal point of view, the required procedures for planning and undertaking TBMs of hazardous wastes and other wastes are clear. However, in practice, the situation can be complex. One of the main complexities is how to ensure that the wastes subject to a TBM will be disposed of in an environmentally sound manner.

II. Objective

3. This practical manual serves as a reference for decision-making related to the consent of a TBM of hazardous wastes and other wastes. It is not legally binding. The manual identifies elements of information useful in determining whether the wastes subject to a TBM will be managed in an environmentally sound manner. The manual is intended for use by competent authorities designated by the Parties to the Basel Convention. While the competent authorities of the States of export, import and transit each have distinct and differing obligations under the Convention, their collaboration is crucial in ensuring that notifications of TBMs meet environmentally sound management (ESM) requirements.

III. How to use the manual

4. This practical manual can be used by competent authorities during the PIC procedure to assess, as far as practicable, whether the waste subject to a TBM will be managed in an environmentally sound manner.

5. In order to assist relevant authorities and other bodies to assess and improve the standard of waste management, the Conference of the Parties to the Basel Convention has adopted numerous technical guidelines and guidance documents which provide detailed guidance on ESM. This practical manual should be used as an accompaniment to such guidelines and guidance documents.¹ It should not be used in isolation by the competent authorities for consenting to or rejecting a TBM of hazardous wastes or other wastes.

6. The key duties of the competent authorities of the States concerned in a TBM and the notifier with respect to the PIC procedure outlined in Article 6 of the Basel Convention are highlighted below.

7. For a complete description of responsibilities, refer to the Guide to the Control System² and the Manual for the Implementation of the Basel Convention.³

¹ Available at: <http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/TechnicalGuidelines/tabid/8025/Default.aspx>.

² Available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

³ Ibid.

IV. Assessing whether a TBM meets ESM standards during the PIC procedure

8. During the PIC procedure, cooperation between the involved competent authorities, mainly from the State of export and the State of import, helps to ensure that hazardous wastes and other wastes are managed in an environmentally sound manner.

9. Establishing mechanisms for cooperation and regular communication among all competent authorities at the national, regional and international levels is recommended to exchange information about ESM in TBM.

10. Requirements to assess whether a TBM meets ESM standards during the PIC procedure can be found in Articles 4 and 6 to the Basel Convention. Notwithstanding the non-legally binding nature of this practical manual, the administrative requirements listed below, as opposed to the supplemental technical information, additional possibilities and additional/special controls, should not be considered optional.

11. The State of export is generally responsible for meeting most administrative requirements. However, in cases where the wastes are legally defined as or considered hazardous only by the State of import, or by the State of import and the State of transit who is a Party, the State of import is responsible for meeting most of them, as per Article 6, paragraph 5 of the Basel Convention.

A. Competent authority of a State of export

12. The following elements should be considered by the competent authority of a State of export during the PIC procedure to assess that there is no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the Basel Convention and relevant national legislation of the State of export and import.

1. Administrative requirements

13. Such administrative requirements include:

(a) Ensuring that the notification form is complete;

(b) Taking all necessary steps to notify the competent authorities of all States of transit and the State of import concerning the proposed TBM;

(c) Assessing information concerning the contract between the exporter and the disposer specifying ESM of the waste subject to TBM. The assessment should ensure that the contract contains all elements as required in national law for such contracts. The Guide to the Control System⁴ contains in its appendix 4, examples of basic elements to be included in such contracts;

(d) Identifying the method(s) of disposal that will be applied to the waste;

(e) Identifying the hazardous characteristics of the waste, where applicable;

(f) Assessing whether the technology and disposal operation(s) is appropriate and provides for ESM of the waste.

2. Supplemental technical information

(a) Assess whether the proposed disposal operation(s)⁵ for residues are environmentally sound

14. Residues arising from the treatment of hazardous wastes and other wastes may still be wastes covered by the Convention. Such an assessment could include identifying the method(s) of disposal that will be applied to such residues to ensure their ESM as provided by Basel Convention technical guidelines.

(b) Assess the ESM capacity of the disposal facility or facilities

15. Such an assessment, done in collaboration with the State of import which should provide relevant information, should include whether the disposal facility (including for storage, as applicable) has all necessary valid authorizations, permits or licenses for the intended disposal operation.

16. When feasible, the assessment could also include whether:

⁴ UNEP/CHW.12/9/Add.3/Rev.1 available at the Basel Convention website:

<http://www.basel.int/Implementation/Controllingtransboundarymovements/Guidance/tabid/4313/Default.aspx>.

⁵ When referring to a disposal operation or disposal facility within the manual, all disposal operations listed in Annex IV to the Convention and facilities involved in the TBM are to be considered.

- (a) The disposal facility has the capacity to complete the proposed disposal of the waste, noting there may be multiple operations required and corresponding facilities: ESM should apply to all;
- (b) Any storage of the waste is adequate and environmentally sound;
- (c) The standards of the disposal facility in the State of import are acceptable to the State of export.

(c) Assess whether pollution control measures are adequate

17. When feasible, such an assessment, done in collaboration with the State of import that should provide relevant information, could include whether:

- (a) The State of import has effective pollution control measures in place in relation to the disposal facility that address, air emissions, effluents and soil contamination;
- (b) The disposal facility is designed and operated in accordance with established environmentally sound operational policies, that inter alia protect against harmful exposures to workers and nearby communities and releases to the general environment, including practices, codes of conduct aimed at preventing and mitigating potential releases from the proposed disposal operation;⁶
- (c) The facility has procedures or other measures in place to respond to emergencies during waste handling as well as procedures to help workers seek services when suffering from occupational exposure from hazardous wastes, or emissions or injury.

3. Additional possibilities to ensure the ESM of the wastes

18. If it is unclear whether a disposal facility can ensure the ESM of the wastes subject to TBM, the competent authority of the State of export may impose additional requirements, where possible. Additional requirements that may also be applied before export are described below.

(a) Additional requirements established by the competent authority

19. The competent authority of the State of export could provide the notifier with a detailed explanation of the additional requirements, including what additional information is required. For example, the consent of an initial proposed “test” export⁷ may be subject to a detailed report of the results of the disposal of the concerned waste in the disposal facility. Subsequent proposed exports may be subject to the results of this report. Alternatively, the exporter may be interviewed about the importer or the disposal facility for first time notification.

(b) Independent audit of the disposal facility

20. The competent authority of the State of export may require an independent audit of the disposal facility. In particular when receiving an initial notification. An audit of the proposed disposal facility could support the competent authority of the State of export in assessing the proposed TBM. The competent authority of the State of export may use this information to assess subsequent notifications for exports to the same disposal facility based upon the results of this audit.

(c) Additional/special controls

21. Control and enforcement personnel could be made aware of additional/special controls that can be made in the State of export, e.g., at the border.

4. Potential resources for information about the disposal facility in the State of import

22. Such resources include:

- (a) Tools on the Basel Convention website;
- (b) National reports on the Basel Convention website, including Article 11 agreements;
- (c) Competent authorities and focal points to the Basel Convention including:

⁶ Several technical guidelines under the Basel Convention provide guidance on the disposal operations listed in Annex IV:
<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/TechnicalGuidelines/tabid/8025/Default.aspx>.

⁷ Such a “test” export would be carried out in accordance with the Basel Convention and relevant national legislation.

- (i) Databanks of relevant information on disposal facilities in States of import established by competent authorities of the State of export;
- (ii) Previous assessments performed by competent authorities of the State of export of the facilities, technologies and regulations in the State of import;
- (d) Regional Centres;
- (e) Websites of disposal facilities;
- (f) ISO database of certified facilities;
- (g) Website of environmental agencies in States of import;
- (h) References from industry, including trade associations;
- (i) Prior TBMs of hazardous wastes or other wastes to the State of import and to the disposal facility;
- (j) Certification schemes of the site or facility;
- (k) Anecdotal information about the performance of the disposal facility with respect to ESM of wastes, if available.

B. Competent authority of a State of transit

23. If the competent authority of a State of transit receives a notification for a TBM of hazardous wastes or other wastes, the competent authority should take the necessary steps to ensure that the planned transit through its territory will minimize the risks of damage to the environment and human health in the State of transit prior to consent. During transit, random and targeted checks of shipments by the competent authority of the State of transit may be useful.

24. The obligations and rights of the State of transit that is Party to the Convention⁸ can be found in Article 6 to the Basel Convention, in particular, paragraph 4. The elements below could be considered by the competent authority of the State of transit during the PIC procedure.

1. Supplemental technical information

25. In order to ensure that a transit of hazardous wastes or other wastes is in accordance with national laws and regulations, the competent authority of the State of transit could consider whether:

- (a) The means of transport and the type of packaging are adequate for transporting the waste in question in an environmentally sound manner. The waste classification and description, the description of the hazardous components contained in the waste and the hazardous characteristics of the waste can be used to make an informed decision;
- (b) Restrictions on the notified transportation route apply (e.g. tunnels where explosive or flammable wastes are not allowed to be transported, or sea routes where certain materials are not allowed to be transported);
- (c) Insurance requirements for the transport are met;
- (d) Control and enforcement personnel should be made aware of additional/special controls that can be made or need to be made. For example, verification that the wastes concerned correspond to the description on the notification;
- (e) The transporter provides information on any special handling requirements, including emergency provisions in case of accidents.

2. Potential resources for information for the State of transit

26. Such resources include:

- (a) Tools on the Basel Convention website;
- (b) National reports on Basel Convention website, including Article 11 agreements;
- (c) Competent authorities and focal points to the Basel Convention;
- (d) Regional Centres;
- (e) Other authorities involved in transportation.

⁸ For a State of transit that is not a Party to the Basel Convention, see Article 7 of the Convention.

C. Competent authority of a State of import

27. If the competent authority of a State of import receives a notification for a TBM of hazardous wastes or other wastes, the competent authority needs to ensure that the waste subject to the planned TBM will be managed in an environmentally sound manner.

28. The competent authority could take into consideration the guidance provided in the Checklist for Self-Assessment of National Environmentally Sound Management Capacity⁹ to ensure that the waste will be managed in an environmentally sound manner.

1. Administrative requirements

29. Such administrative requirements include:

(a) Cooperating with States concerned with the TBM during the PIC procedure to assess that there is no reason to believe that the wastes will not be managed in an ESM manner in accordance with the laws and regulations of the State of import;

(b) Checking if a financial guarantee is put in place as may be required by the State of import, and if this is in line with the national legal requirements for such guarantees;

(c) Checking if the intended facility has all necessary valid authorizations, permits or licenses for the intended disposal operation.

2. Supplemental technical information

(a) Assess whether the import is in line with national waste management planning, including as relates to capacity, and with waste management policy principles

30. The competent authority should check if by allowing the import, the country still has sufficient waste treatment capacity to manage wastes generated inside the country or if import would lead to a situation that there would be insufficient capacity to treat wastes generated in the country in an environmentally sound manner.

(b) Assess whether the proposed disposal operation(s)¹⁰ for residues are environmentally sound

31. Residues arising from the treatment of hazardous wastes and other wastes may still be wastes covered by the Convention. Such an assessment could include identifying the method(s) of disposal that will be applied to such residues to ensure their ESM as provided by Basel Convention technical guidelines.

(c) Assess the ESM capacity of the disposal facility

32. Such an assessment should include whether:

(a) The disposal facility has the capacity to complete the proposed disposal of the waste in an environmentally sound manner, including in a manner protective of nearby communities, workers and the environment;

(b) Any storage of the waste is adequate and environmentally sound;

(c) The personnel employed at the disposal facility are trained and have sufficient protective equipment for managing the wastes pursuant to labour and occupational safety measures.

(d) Assess whether pollution control measures are adequate

33. Such an assessment, done in collaboration with the State of export where relevant, could include whether:

(a) Effective pollution control measures are in place in relation to the disposal facility that address air emissions, effluents and soil contamination;

(b) The disposal facility is designed and operated in accordance with established environmentally sound operational policies, that inter alia protect against harmful exposures to workers and nearby communities and releases to the general environment, including practices, codes

⁹

<http://www.basel.int/Implementation/CountryLedInitiative/EnvironmentallySoundManagement/ESMToolkit/Selfassessmentchecklist/tabid/5849/Default.aspx>.

¹⁰ When referring to a disposal operation or disposal facility within the manual, all disposal operations and facilities involved in the TBM are to be considered.

of conduct aimed at preventing and mitigating potential releases from the proposed disposal operation,¹¹

(c) The facility has procedures or other measures in place to respond to emergencies during waste handling as well as procedures to help workers seek services when suffering from occupational exposure to hazardous wastes emissions or injury.

3. Additional/special controls

34. Control and enforcement personnel should be made aware of additional/special controls that can be made in the State of import, e.g., at the border.

4. Potential resources for information for the State of import

35. Such resources may include:

- (a) Tools on the Basel Convention Website
- (b) Websites of disposal facilities;
- (c) ISO database of certified facilities;
- (d) References from industry, including trade associations;
- (e) Prior TBMs of hazardous wastes or other wastes to the disposal facility;
- (f) Certification schemes of the site or facility;
- (g) Anecdotal information about the performance of the disposal facility with respect to ESM of wastes, if available.

¹¹ Several technical guidelines under the Basel Convention provide guidance on the disposal operations listed in Annex IV:
<http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/TechnicalGuidelines/tabid/8025/Default.aspx>.