

Summary Record of the First Meeting of the Ad Hoc Task Team Further to the 2022 Objection to Incorporation of Amendments to the Basel Convention into the OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations

Draft

Virtual meeting, 10 and 14 February 2023

This document provides a draft summary record of the first meeting of the Ad Hoc Task Team Further to the 2022 Objection to Incorporation of Amendments to the Basel Convention into the OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations (OECD/LEGAL/0266). The final version of this document will be shared with Task Team members and members of the Working Party on Resource Productivity and Waste (WPRPW).

Task Team members are invited to provide comments on this draft by 17 March 2023.

Participants: See list of participants available [here](#).

Note: All information shared in written form is made available on the community site.

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Draft summary record of the first meeting of the Ad Hoc Task Team (online)*

* Ad hoc Task Team Further to the 2022 Objection to Incorporation of Amendments to the Basel Convention into the OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations

1. Opening remarks

Kimberly Cochran (Chair of Task Team) opened the meeting by providing an overview of the genesis, mandate and composition of the Task Team as well as the foreseen timeline, as specified in the [Terms of Reference](#).

The Chair also presented the agenda of the meeting, which was subsequently adopted.

2. Implications of recent Basel amendments on e-waste and process for the OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations (OECD/LEGAL/0266)

The OECD Secretariat presented the implications of recent amendments to the Annexes of the Basel Convention on the Control of Transboundary Movements of Wastes (hereafter “the Basel Convention”) for the OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations (OECD/LEGAL/0266) (hereafter “the OECD Decision”):

- On 17 June 2022 the 15th Basel COP adopted amendments to their waste lists, further restricting transboundary movements of electrical and electronic waste.
- In July 2022, the OECD Secretariat provided a document showing how the amendments would be incorporated in the OECD Decision in the absence of an objection.
- On 16 August 2022, the OECD Secretariat received a letter from Japan objecting to the automatic incorporation of the recent amendments to the Basel Convention into the OECD Decision, accompanied with an alternative proposal.

3. Japan’s alternative proposal for amendments to Appendices 3 and 4 of the OECD Decision

Japan presented its alternative proposal to the incorporation of amendments on e-waste to the Basel Convention into Appendices 3 and 4 of the OECD Decision, which seeks to retain OECD entries GC010 and GC020 in Appendix 3 (green control procedure) of the OECD Decision. The presentation also laid out the reasons for objecting. Japan invited Task Team members to share their views on the alternative proposal and to jointly work towards an improved wording.

4. Overview of information received through the questionnaire

At the 17th Working Party on Resource Productivity and Waste (WPRPW), delegates agreed to collect data and information to help inform the negotiations. A questionnaire was compiled based on suggestions submitted by WPRPW delegates and observers.

The OECD Secretariat presented an overview of the information received and collected through the questionnaire. Prior to the meeting¹, responses to the questionnaire were submitted by Canada, Japan, the United Kingdom, the United States and the European Union and its Member States. The information was provided at different levels of granularity, which made it difficult to analyse and draw conclusions from. The Secretariat reported on the findings related to the data on trade flows of e-waste from national sources

¹ In addition, New Zealand submitted a response to the questionnaire after the meeting on 21 February 2023.

and the UN Comtrade as well as on differences in the interpretation and implementation of current OECD and Basel listings in domestic legislation and practices. Information on pre-consented facilities on e-waste and prior informed consent (PIC) notifications was also reported on.

Following the presentation, the Chair invited feedback from the floor. Some Task Team members expressed their view that this information, while incomplete, provided useful information to support the discussions, in particular as it highlighted the differences in the interpretation and implementation of e-waste listings, as well as the use of the PIC procedure. One Task Team member proposed the possibility of collecting additional information on trade flows of e-waste subject to the green control procedure within the EU by using data reported under Annex VII of the EU Waste Shipment Regulation. However, according to some Task Team members, past experience and practice show that the information reported through this Annex VII is currently not compiled in a structured manner and is thus not readily available. One Task Team member clarified discrepancies in the presentation of their information provided on PIC processing times, which the Secretariat will correct.

Delegates, in particular those that have not yet responded to the questionnaire, were invited to submit information in the coming months.

5. Discussion

Approach taken

The Chair invited for a “tour de table” on positions of country, private sector and civil society delegations with respect to Japan’s alternative proposal. Task Team members voiced their positions as of to date and provided comments on Japan’s alternative proposal. Several Task Team members stressed the importance of achieving consensus among OECD countries on controls for e-waste.

Following the “tour de table” the Chair proposed a two-stage approach to start the negotiations: first, to discuss controls of hazardous e-waste and following this to discuss controls of non-hazardous e-wastes. Task Team members agreed with this approach.

Discussion on hazardous e-waste

A first discussion took place on how to control hazardous e-waste (i.e. Basel entry A1181).

Japan’s proposal to date sets out exemptions from the amber control procedure for e-wastes listed under OECD entries GC010 and GC020. In their view, these OECD entries may also contain certain e-wastes covered by A1181, implying that certain e-wastes with hazardous characteristics could also be green listed and not subject to the PIC procedure.

Most Task Team members were of the opinion that all hazardous e-waste (i.e. A1181 in its entirety) should be subject to the amber control procedure and no exemptions should or could be made to green-list certain wastes contained in A1181.

Despite some convergence further negotiations are needed to reach consensus on how to control wastes listed under A1181 in the OECD Decision.

To help structure forthcoming discussions, Task Team members also identified three options on how A1181 could be incorporated into Appendix 4 of the OECD Decision, depending on how other e-wastes are controlled and whether there would be exemptions from A1181 that are subject to the green control procedure:

1. If there is consensus for incorporating A1181 and Y49 in Appendix 4 in their entirety, A1181 could be included through Part I of Appendix 4 without providing additional text in Part II.

2. If there is consensus for incorporating A1181 in its entirety in Appendix 4, but no consensus is reached on incorporating Y49 in its entirety, the content of A1181 could be included as a new entry in Part II, with text identical to A1181, but modifying the reference to Y49.
3. If there is consensus for incorporating A1181 and Y49 in Appendix 4, but exemptions to these are included in Appendix 3, then both entries could be included through Part I of Appendix 4, with the agreed exemptions listed in Part II of Appendix 3. A modified note c) in Part II of Appendix 4 may also be required to refer to these exemptions.

Discussion on non-hazardous e-waste

A first discussion took place on how to control non-hazardous e-waste (i.e. Y49). Several Task Team members supported amber-listing of Y49 in Appendix 4 in its entirety without exemptions, whilst others were open to discussing potential exemptions from Y49 that could be green-listed in Appendix 3 of the OECD Decision.

Discussion on possible exemptions for e-wastes from the amber control procedure

Task Team members also had an initial discussion on possible e-waste streams that could be exempted from the amber control procedure and subject to the green control procedure by listing these in Appendix 3. No consensus was reached during the meeting on any of the proposals for such exemptions.

- Discussion on OECD entries GC010 and GC020

Japan's alternative proposal lists OECD entries GC010 and GC020 in Appendix 3 as exemptions from the amber control procedure for Basel entries A1181 and Y49 that would be incorporated in Appendix 4. A group of Task Team members considered the wording of entries GC010 and GC020 imprecise and voiced their preference for using the wording of A1181 and Y49 to formulate possible exemptions to improve legal clarity of the entries and ensure consistency with the Basel Convention. In addition, some Task Team members questioned the relevance of potentially exempting GC010 from Appendix 4 as these wastes are already covered by other waste codes included in Appendix 3, notably B1010 and B1020. Japan acknowledged the differences in interpretation of GC010 and GC020 that appeared from responses of the questionnaire and the discussion.

- Discussion on printed circuit boards (PCBs)

Task Team members discussed exempting PCBs from the amber control procedure and instead listing these in Appendix 3. In line with the presentation of their proposal, Japan argued that PCBs are low-risk e-scrap with significant evidence of environmentally sound management in OECD Members. Several other Task Team members raised concerns and disagreement with exempting all PCBs, as this would imply exempting some hazardous e-waste from the amber control procedure. On differentiating controls for hazardous PCBs and non-hazardous PCBs, some Task Team members raised implementation concerns, as visually distinguishing between hazardous PCBs and non-hazardous PCBs (as is usually done by customs authorities) with both requiring different controls would be challenging to enforce.

- Discussion on magnets

One Task Team member proposed magnets as a possible exemption from Appendix 4. One Task Team member noted that in their interpretation magnets are already listed in Appendix 3, as when properly sorted, they would be covered by Basel entry B1010. Other Task Team members reiterated their preference to not diverge from Basel wording for e-waste listings when discussing possible exemptions.

Additional issues identified

- Implementation of the prior informed consent (PIC) procedure

Some Task Team members argued for improving the implementation of the PIC procedure as this could alleviate concerns about increased administrative (and financial) burden on companies, if more e-wastes were to be subject to the amber control procedure. One Task Team member noted that the tacit consent as stipulated in the OECD Decision appeared not to be widely used among Adherents to this Decision. Another member of the Task Team reminded the group about the possibility of competent authorities pre-consenting certain recovery facilities within their jurisdiction, which allows to benefit from an accelerated procedure.

Whilst it was cautioned, that issues related to PIC processing times were not an argument for including certain e-wastes in Appendix 3, some Task Team members welcomed the exchange in best practices on how to improve and streamline the PIC procedures, such as digitalising PIC notification, the transmission of moving documents and their processing. The Chair reminded Task Team members that a discussion of the PIC procedures of the OECD Decision and its implementation was not within the mandate of the Task Team, but that experiences and best practices of implementation may be shared in the Task Team. Further discussions around PIC (if any) would need to take place within the WPRPW.

6. Concluding remarks and next steps

The following next steps were agreed in the Task Team:

- **By the end of April 2023**
 - Task Team members are invited to submit comments on the issues discussed during the first Task Team meeting [on the WPRPW community site](#).
 - Members that did not present a final position during the first Task Team meeting are invited to share their final position [on the WPRPW community site](#).
 - Further to its offer to this effect, Japan is invited to submit a revised version of its alternative proposal.
 - Members and observers are invited to submit additional information on the questionnaire by sending it to the Secretariat.
- **By the end of May 2023**
 - Task Team members are invited to provide reactions to Japan's revised alternative proposal, as well as any further comments related to other issues discussed during the meeting and post these [on the WPRPW community site](#).
- **21 June 2023** – Second meeting of the Task Team (face-to-face) in Paris.