

**Letter in support of Japan's revised version
of its alternative proposal for new e-waste entries**
under the *OECD Council Decision on Transboundary Movements of
Wastes Destined for Recovery Operations*

20 June 2023

Dear Members of the OECD WPRPW and Ad Hoc Task Team,

Business at OECD (BIAC) appreciates the opportunity to share views of business stakeholders on the work of the Ad Hoc Task Team reviewing Japan's objection and alternative proposal for revising the current waste entries for electrical and electronic waste ("e-waste") in the *OECD Council Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations* ("OECD Decision").

- BIAC supports Japan's objection to the automatic incorporation of the recently adopted Basel Convention e-waste amendments into the OECD Decision.
- We urge members to maintain the economic efficiencies and sustainability benefits that arise from the management of low risk, non-hazardous e-waste as Green List waste for recovery among OECD member countries. Such an approach ensures OECD leadership in advancing economically and environmentally sound responses to the "triple challenge" of climate change, biodiversity loss, and pollution.
- BIAC supports Japan's revised version of its proposal and offers drafting suggestions to one element of the proposal. Specifically, we offer below recommendations on the revised Japan proposal that are intended to allow for more flexible recovery operations for low-risk e-wastes falling under the new GC entry.

Background

Basel Parties recently agreed to amendments to the Convention that will bring all hazardous and non-hazardous e-waste under the Convention's controls and trade prohibitions in January 2025. The Parties adopted these amendments largely in response to concerns over the management of e-waste, recognizing that some countries may lack the capacity to easily distinguish hazardous from non-hazardous waste. During negotiations on the new entries, Parties also noted that some developing countries may not have the formal recycling infrastructure needed to ensure environmentally sound management of e-waste. Under the new listings, Parties adopted text that provides greater legal clarity with respect to the types of e-wastes that Parties are to classify as hazardous wastes under the Convention. Parties also agreed to control other non-hazardous e-wastes under the prior informed consent ("PIC") procedure as "other wastes".

BIAC understands the concerns that motivated the adoption of new PIC and other requirements on all types of e-waste shipped under the Convention. However, in the view of the business community, controlling low-risk, high-value electrical and electronic wastes in a similar fashion within the OECD area would undermine the efficient and environmentally sound recycling of materials. In contrast to the varying capacities of the 190 Parties to the Basel Convention, OECD members are recognized as having well-developed waste management and recycling infrastructure and robust regulatory capacities that, on the whole, weigh in favor of facilitating rather than burdening trade flows in low-risk e-wastes that are essential to achieving broader circularity goals. In addition to rigorous accession and membership requirements, OECD members operate under various Decisions and Recommendations of the Council on environmental matters that support a risk-based approach to the recovery of certain types of e-waste.¹

Support for Japan's Objection and Revised Proposal

BIAC supports Japan's objection to the automatic incorporation of the new Basel e-waste entries into the OECD Decision. We support and applaud Japan's decision to put forward a revised proposal based on some of the initial feedback received from members and stakeholders.

- Under Japan's revised proposal, many types of e-waste currently managed under the Green list procedure (outside PIC controls) would be brought within the Amber control system when shipped for recovery within the OECD.
 - Japan's proposal would require Amber controls on all OECD shipments of hazardous and non-hazardous whole equipment under two new entries (AA200 and AA210). If adopted, the new entries would mark a significant expansion of the OECD Amber controls to shipments of whole equipment managed for recovery.
 - Both hazardous and non-hazardous waste components and hazardous and non-hazardous wastes arising from the processing of e-waste would also be subject to Amber controls, unless the narrowly drawn GC060 entry applies, or another Appendix 4 entry applies.
- Japan's new text for GC060 provides a narrow Green list entry for certain low-risk electrical and electronic components, provided these e-wastes are disassembled into known components, properly packaged, labelled and transported in a protective manner, and destined for environmentally sound recovery within the OECD.
- Japan's revised proposal allows for increased regulatory controls on most types of e-waste movements within the OECD while also retaining a narrow GC entry. This approach furthers the efficient recovery of valuable metals contained in low-risk components - materials that are critical to advancing more sustainable and resilient supply chains for precious and base metals and critical minerals.

¹ These obligations include *Recommendation of the Council on the Environmentally Sound Management (ESM) of Waste*, OECD/LEGAL/0329 (2004). Decision 0329 aims to ensure that waste management throughout the OECD area is undertaken in an economically efficient manner, with minimal adverse impacts on the environment. The Recommendation sets forth policy principles, and practical facility-level measures.

With respect to Japan's alternative text for a new GC060, BIAC supports the entry put forward but also puts forward the following recommended revision:

Whole or shredded electronic components (e.g. printed circuit boards, wires, coils, connectors, lead frames), which are packaged, labelled, and transported in conformity with generally accepted and recognized national and international rules and standards, and destined for environmentally sound recycling/~~reclamation~~ of metals and metal compounds ~~at metal smelting and refining (e.g. smelting, hydrometallurgy, physical/mechanical treatment).~~

As a further assurance of environmentally sound recovery, OECD members may also wish to condition the new GC060 entry on the use of additional documentation and declarations regarding the waste shipment and planned recovery.²

Improving Trade Efficiencies and Circularity

We also recommend that the WPRPW consider steps that can be taken to further the environmental and social benefits that can be achieved through improved use of the trade facilitating mechanisms contained in OECD Decision C(2001)107/Final. As OECD members expand the universe of recyclable materials subject to Amber controls, improved trade efficiencies become critical to achieving circularity goals and resilient supply chains that incorporate recovered materials.

If OECD members agree to new entries that in effect expand the scope of electrical and electronic waste that are to be managed under the Amber control procedure, we encourage members to take complementary actions needed to ensure the system has the capacity to work at the speed of business:

- As an initial matter, the WPRPW could review the reluctance of most OECD members to operate the control system under the tacit consent procedures set out in the Council Decision. Such a review could help identify ways to increase the timeliness of formal PIC approvals and increase the use of tacit consent procedures for certain high-value waste streams.
- OECD members should also explore opportunities to make greater use of electronic notification, consent and communication platforms to enhance transparency, efficiency and management of recyclables within the OECD area.
- As a general matter, authorized/licensed/permitted facilities approved for recovery of e-waste should be pre-consented to receive e-wastes subject to the Amber control procedure to minimize delays and trade frictions on the movement of e-waste to authorized facilities.
- An improved monitoring system should be established to enhance transparency of trade flows and collect data on the efficiency of the notification process, specifically the time taken to obtain consent – such information would allow regulators to exchange information on ways to maintain and improve the control system.

² For example, the updated GC entry for e-wastes could require or recommend that exporters ensure the movement document information described in Appendix 8.B, adjusted to reflect the Appendix 3 GC entry, accompanies the shipment.

Without these and other improvements, BIAC is concerned that any expansion of the Amber control system to cover additional types of waste electrical and electronic equipment will harm recovery and undermine the advantages of the current management system that OECD members have established to operate among OECD member countries.

These practical considerations along with the revised proposal put forward by Japan will help OECD members maintain an approach to e-waste classification and recovery that furthers economic efficiencies, builds resilient and responsible supply chains for metals, precious metals and critical minerals, and ensures environmentally sound management.

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