

August 15, 2022

His Excellency Mathias Cormann
Secretary-General
Organization for Economic Cooperation and Development
2, Rue André Pascal
75775 Paris Cedex 16
FRANCE

Dear Mr. Secretary-General,

Japan is invoking the objection provision in Chapter II. B. Section 3 a) of the *OECD Council Decision C(2001)107/FINAL, As amended, on the control of Transboundary Movements of Wastes Destined for Recovery Operations* (the OECD Decision)¹. This letter encloses an alternative proposal by Japan for Appendices 3 and 4 of the OECD Decision in response to incorporating the e-waste amendments to Annex II, VIII and IX of the *Basel Convention on the Controls of Transboundary Movements of Hazardous Wastes and Their Disposal* (the Basel Convention) adopted by the Conference of the Parties at its 15th session to the Basel Convention (COP15) on June 17, 2022.²

At COP15, the Parties to the Basel Convention achieved an important step in addressing the issue of e-waste at a global level. Japan was in full support of adopting the e-waste amendments at COP 15 and will continue our efforts to control the transboundary movements of e-waste effectively. The environmentally sound management (ESM) of e-waste is an emerging challenge for society that should be address it in multiple forums and channels. In this spirit, Japan appreciates that the OECD Secretariat circulated the revised text on July 13 to clarify how the OECD Decision would incorporate the e-waste amendments to the Basel Convention and what OECD members should expect in order to implement the new OECD Decision.

In incorporating amendments to the Basel Convention in the OECD Decision, commonalities and differences between the two legal texts should be noted. The Basel Convention and OECD Decision both provide regulatory frameworks for transboundary movements of wastes, but have different member states and purposes. The e-waste amendments were proposed considering the limited capabilities of waste-management systems in some countries. This constraint does not necessarily apply to OECD member states. The purpose of the OECD Decision is to facilitate environmentally sound and economically efficient waste recovery to contribute to resource efficiency and sustainable

¹ OECD-Legal-0266

² UNEP/CHW.15/CRP.29

development. Therefore, Japan believes each rule should accommodate and reflect different objectives and circumstances to enhance environmentally sound waste management and a global circular economy.

A printed circuit board, which represents a high-value fraction of e-waste and contains high concentrations of precious metals, amounts to 1.2 million tonnes in annual e-waste generation.³ In responding to that amount, OECD members have been strengthening technological capabilities and trade channels for e-scrap recovery, not diminishing them. For example, Japan has contributed to building a global circular economy by recycling printed circuit board scrap generated worldwide. As a result, the total maximum capacity of major printed circuit board scrap treatment facilities reaches 0.5 million tonnes. Currently, 0.36 million tonnes of printed circuit board scrap is separated from e-waste, moved across borders, and recycled in environmentally sound facilities in OECD region such as the EU, North America, South Korea, and Japan. This transboundary movement occurs under the green control procedure which is granted to some items whose recovery process does not pose any risk for human health and the environment in the OECD region. GC010 and GC020 which has been subject to the green control procedure had passed the test in the risk-based approach of Appendix 6 when they were listed in Part II of Appendix 3.

E-waste generation is expected to increase from 53.6 million tonnes in 2019 to 74.7 million tonnes in 2030. It is highly likely that printed circuit board scrap will increase, corresponding to the growing trend of e-waste generation in 2030. The growing amounts of printed circuit board scrap generated requires that they must flow into the environmentally sound management facilities in a timely manner. Japan is aiming at doubling the amount of metal recycling by 2030 with high waste management standards and advanced recycling technology. When one Member is about to reach its maximum recovery capacity for e-scrap, while other Member still possesses surplus capacity, it is optimal to move e-scrap from one to the other in terms of resource efficiency and a circular economy. The application of the green control procedure to e-scrap classified as GC010 and GC020 has facilitated the e-scrap to move into a jurisdiction where environmentally sound and efficient recycling is possible.

However, additional procedures required by applying amber procedures to GC010 and GC020 will most likely slow down the current effective and ESM circulation of e-scrap in OECD members despite the rapidly growing e-scrap generation. Moreover, it burdens e-scrap treatment systems in some countries, and there would be a concern for diverting recoverable e-scrap from recycling to less preferred disposal in recovery hierarchies, such as landfilling and incineration. Well-established trade flows of e-scrap among OECD

³C.P. Baldé, E. D'Angelo, V. Luda O. Deubzer, and R. Kuehr (2022), *Global Transboundary E-waste Flows Monitor - 2022*, United Nations Institute for Training and Research (UNITAR), Bonn, Germany

countries have contributed to creating a sustainable circular economy of e-scrap and therefore should continue its contribution.

Therefore, simply deleting GC010 and GC020 will not adequately reflect the original intentions of the OECD Decision and GC listings. Thus, transboundary movements of e-scrap between OECD members for recovery operations should be subject to the green control procedure, as they currently are.

Moreover, 60 days is too short to fully examine the implications and potential impacts of the revised text provided by the OECD Secretariat. Therefore, Japan submits this objection letter as this is the only way to open the discussion in the appropriate OECD body. We look forward to further discussion and exchanging views on accelerating a global circular economy among our OECD colleagues in the coming months.

Sincerely,

土居 健太郎

DOI Kentaro

Director General
Environment Regeneration and Resource Circulation Bureau
Ministry of the Environment, Japan

Enclosure

cc: Mr. Alain de Serres, OECD Environment Directorate

Japan's Alternative Proposal

Japan recommends the following modifications to the *OECD Council Decision C(2001)107/FINAL, As Amended, on the control of Transboundary Movements of Wastes Destined for Recovery Operations* (the OECD Decision)⁴. Our proposal is based on the *Revised text of OECD-Legal-0266, incorporating e-waste amendments* (the Revised Text) circulated by the OECD Secretariat on July 13, 2022, which illustrates the incorporation of the e-waste amendments to Annex II, VIII and IX of the *Basel Convention on the Controls of Transboundary Movements of Hazardous Wastes and Their Disposal* (the Basel Convention) adopted by the Conference of the Parties at the 15th session to the Basel Convention on June 17, 2022.⁵

Our proposal consists of recommendations for two parts of Appendices 3 and 4 of the OECD Decision. It starts with Part II of Appendix 3, followed by Part I of Appendix 4. We also note a comment on Part I of Appendix 3.

1. Appendix 3 Part II

Although the Revised Text deletes GC010 and GC020 in Part II of Appendix 3, we propose retaining GC010 and GC020 in Part II.

As mentioned earlier in this letter, GC010 and GC020 had passed the test in the risk-based approach of Appendix 6 when they were listed in Appendix 3 Part II of. Since then, OECD members have strengthened ESM and their technological capacities and trade channels for e-scrap recovery over time.

2. Appendix 4 Part I Paragraph c)

The Revised Text deletes A1180, GC010 and GC020 from paragraph c) of Appendix 4 Part I and makes grammatical changes accordingly.

Japan recommends inserting A1181 and Y49 as a replacement for A1180 to be consistent with the new entries for e-waste in the Basel Convention.

Secondly, we propose retaining GC010 and GC020 in this paragraph to ensure e-scrap flowing from generators to treatment facilities achieves environmental protection in OECD countries.

Finally, our proposal adds c bis) in Part I of Appendix 4 to separate fly ash from the incorporated e-waste amendments. The proposed text of the paragraph c bis) is the same text as provided in paragraph c of the Revised Text.

There is a gap between the coverage of A1180, and GC010 and GC020. A1180 covers e-waste in general, while GC010 and GC020 narrow down what is covered. The new Basel entry, A1181, clarifies what items are subject to regulation under the Basel Convention. However, the gap still remains. The scope of A1181 is broader than GC010

⁴ OECD-Legal-0266

⁵ UNEP/CHW.15/CRP.29

and GC020. This gap deserves discussion among OECD members so that each member can better understand the relationship between those two legal texts and facilitate implementation in their jurisdictions.

The table below compares the Revised Text and Japan's proposal. Our proposal shows track changes made in the OECD Decision text.

Table: the Revised Text and Japan's proposal

Revised Text by OECD Secretariat	Japan's proposal
c) Basel entry ies A1180 and A2060 does not apply and OECD entry ies GC010, GC020 and GG040 in Appendix 3 Part II appliesy instead when appropriate . Member countries may control these wastes differently in accordance with Chapter II B 6 of this Decision concerning wastes not listed in Appendices 3 or 4, and the chapeau of Appendix 3.	c) Basel entries A118 10 and Y49 A2060 do not apply <u>except for and</u> OECD entries GC010; <u>and</u> GC020 and GG040 in Appendix 3 Part II apply <u>instead</u> when appropriate. Member countries may control these wastes differently in accordance with Chapter II B 6 of this Decision concerning wastes not listed in Appendices 3 or 4, and the chapeau of Appendix 3.
	<u>c bis) Basel entry A2060 does not apply and OECD entry GG040 in Appendix 3 Part II applies instead when appropriate. Member countries may control these wastes differently in accordance with Chapter II B 6 of this Decision concerning wastes not listed in Appendices 3 or 4, and the chapeau of Appendix 3.</u>

In addition to the aforementioned modifications, paragraph e) Appendix 3 Part I should be deleted after OECD members find that the current green control procedure on GCs will not be changed and the technical consistency with the Basel Convention will require the deletion of this paragraph. We suggest that the deletion of Paragraph e) should be coherent with the result of the examination of our proposal.