

UN Conventions

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes

DATE RATIFIED BY THE PHILIPPINES

19 January 1994



Mr. Geri-Geronimo R. Sañez of EMB delivers the Philippine intervention of support to the 'Proposal to Amend Annexes II, VIII and IX of the Basel Convention on Listing of Plastic Materials as Waste' in Geneva, Switzerland on 8 September 2018. [Geri Sañez]

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes is a multilateral environmental agreement that obligates the Party States to reduce the generation and illegal traffic of hazardous waste from one State to another. Specifically it aims to prevent the transfer of hazardous wastes from developed countries to developing and less developed countries

(LDCs). It was adopted on 22 March 1989 by the Conference of Plenipotentiaries in Basel, Switzerland, in response to a public outcry on the discovery of deposits of toxic wastes imported to Africa and other parts of the developing world.

The Convention aims to ensure the Environmentally Sound Management (ESM) of hazardous materials which includes their storage, transport, treatment, reuse, recycling, recovery and disposal. Under the Convention, parties may enter into agreements with parties or non-parties (bilateral, regional or multilateral), authorizing transboundary movement of hazardous wastes into their respective jurisdictions with the condition that such agreements or arrangements do not violate the ESM of hazardous wastes under the Convention. The Convention includes a protocol on liability and compensation for damages resulting from the transboundary movement and disposal of hazardous wastes.

COMMITMENTS

In Article 4 on "Expected Measures and Actions" of the Convention, each party is expected to (a) reduce to a minimum, the generation of hazardous wastes and other wastes; (b) ensure that adequate disposal facilities for ESM of hazardous wastes and other wastes are available; (c) ensure that personnel involved in hazardous waste management take pollution control measures to minimize the adverse consequences of these to human health and the environment; (d) reduce to a minimum, the transboundary movement of hazardous wastes; (e) not allow the export of hazardous wastes to a State or group of States that are parties, particularly developing countries, which have prohibited all imports or if the wastes will not be managed in an environmentally sound manner; (f) require information clearly stating the effects on human health and the environment about a proposed transboundary movement of hazardous wastes and other wastes according to Annex V-A of the Convention; (g) prevent the import of hazardous wastes and other wastes if these will not be managed in an environmentally sound manner; (h) cooperate in activities with other Parties and organizations in the dissemination of information on the transboundary movement of hazardous wastes, in order to improve the ESM of such wastes and prevent illegal traffic of the same; the Party states are responsible for enacting national laws to prevent and punish illegal traffic of hazardous wastes.

Under Article 6, the Philippines through the DENR-EMB, the competent authority, shall notify or shall require the exporter to notify the competent authority of the importing state of any proposed transboundary movement of hazardous or other wastes.

Under Article 15, parties are required to submit a report on the previous calendar year which includes information on transboundary movement of hazardous wastes in their area, measures adopted by parties in the implementation of the convention, activities related to bilateral/multilateral agreements and arrangements and other pertinent information.

The Philippines has forged a bilateral agreement in 2002 with the United States of America regarding the transboundary movement of hazardous wastes from the Philippines to the United States in compliance with Article 11 of the Convention.

POLICY ISSUANCE

Republic Act No. 6969 or the “Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990” serves as the overall legal and regulatory framework on which DENR administrative orders, memorandum circulars and other policies are hinged on. These policies can be found in the Environmental Management Bureau’s website at <https://emb.gov.ph/laws-and-policies-hazardous-waste-management/>

UPDATES AND RELATED PROJECTS

The Philippines submitted its 2017 National Report to the Basel Convention on 27 December 2018. The report contained pertinent national strategies and policies, legislation, regulations and guidelines issued to realize the reduction or elimination of the generation of hazardous waste and other wastes and the reduction of the amount of hazardous wastes and other wastes subject to transboundary movement.

At the Basel Convention Conference of Parties (COP) 13 held in 2017, marine litter was included in the program of work of the Open-ended Working Group and a new Partnership Program on Household Waste was established as the Partnership for Action on Computing Equipment came to an end.

The EMB continues to issue importation clearances for recyclable materials containing hazardous substances and export clearance for hazardous wastes for final recovery and disposal as specified in DENR Department Administrative Order (DAO) 1994-28, on Interim Guidelines for the Importation of Recyclable Materials Containing Hazardous Substances and DAO 2013-22 on Revised Procedures and Standards for the Management of Hazardous Wastes.

The amendment of relevant existing laws and regulation on hazardous wastes and development of "Guidelines on the Environmentally Sound Management (ESM) of Waste Electrical and Electronic Equipment" is currently ongoing. The guidelines will provide a compliance framework for producers, manufacturers, consumers, distributors, retailers, and treatment facilities.

The UNIDO-GEF project on the "Implementation of Polychlorinated Biphenyl (PCB) Management Programs for Electric Cooperatives and Safe E-waste Management," commenced in November 2016 and will be completed by January 2022, aims to protect human health and the environment through sound management of PCBs in transformers and polybrominated diphenyl esters (PBDEs) in e-wastes.

The Efficacy of the Basel Convention: The Case of the Canadian Wastes Illegally Shipped to the Philippines

In July of 2013, illegal shipments of garbage or municipal solid wastes arrived in the Port of Manila, Philippines. They were declared as recyclable plastic materials. The shipments, contained in 103 fifty-footer container vans, were shipped by the exporter Chronic, Inc. Ontario, Canada to its consignees Chronic Plastic in Valenzuela City and Live Green Enterprises in Angeles City, Pampanga. The Bureau of Customs Environmental Protection Unit issued Alert Orders, upon the request of the DENR-Environmental Management Bureau (EMB). This was because the latter discovered that the shipments contained heterogeneous scrap plastic materials that prohibit their importation for recycling purposes.

An Interagency Technical Working Group (IATWG) was initially convened and chaired by the Department of Foreign Affairs - Office of American Affairs-Canada Division (OAA) in August 2014. Composed of representatives from the Bureau of Customs (BOC) and the DENR, the ITWG aimed to thresh out the most appropriate solution to the dilemma, recognizing its potential impact on diplomatic relations between the Philippines and Canada. Ultimately, the DFA-OAA relinquished the chairmanship of the IATWG to the DENR, who conducted a series of meetings to resolve the issue. The membership of the IATWG was expanded to include the Department of Justice in relation to the prosecution of administrative and criminal cases filed against the consignee and its brokers. The IATWG had to decide on whether to recommend that the said wastes shall be disposed of locally or to have the wastes shipped back to Canada through diplomatic channels.

As a party to the Basel Convention, the Philippines had the right or authority to require Canada, also a party to the said convention, to ship back its wastes. This is because Article 9, Paragraph 2 of the Basel Convention states that, *“In case of a transboundary movement of hazardous wastes and other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator,*

the State of export shall ensure that the wastes in question are: (a) taken back by the exporter or the generator or, if necessary of by itself into the State of export; and (b) are otherwise disposed of in accordance with the provisions of this Convention within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of Export.”

On 1 April 2015, the Manila Regional Trial Court (RTC) Branch 47 issued a court order that the wastes should be disposed immediately. However, this order was not fully complied with due to several protests from the Provincial Government of Tarlac as well as the outcry from environmental non-government organizations (NGOs) opposing the disposal of the wastes in the Metro Clark Waste Management Corporation’s (MCWMC) Landfill in Tarlac. However, in an Order dated 30 June 2016 issued by Judge Alisuag of Manila RTC Branch 1, the importer was ordered to send the wastes back to Canada at the importer’s expense.

The Bureau of Customs (BOC) reported that, of the 50 container vans consigned to Chronic Plastic, only 16 vans were still in BOC custody while the others were already disposed of in the Tarlac landfill. Fifteen container vans were stored in the Port of Subic and one in the Manila International Container Port (MICP). In relation to the 48 container vans consigned to Live Green Enterprises, the BOC reported that they were all were stored in the Port of Subic Container Terminal. The DENR EMB did not issue an Importation Clearance for the said shipment.

During the Canada-Philippines Bilateral Technical Working Group meeting in Ottawa, Canada on 21 March 2019, the Philippine government was informed that the Canadian government was considering accepting the wastes once they arrive at its port and that they shall deal with the said wastes from that point onward. On the matter of shipping costs to be incurred for its return, there was no commitment from Canada to take on the responsibility at that time. However, in 24 April 2019, Canada informed the Philippines on its readiness to cover

all the costs including the necessary arrangements for the return of the remaining 69 containers of wastes and to manage their disposal in Canada.

On 10 May 2019, as a requirement from the Canadian Government to fully address its commitment, the transfer of ownership documents such as the Re-Exportation Orders from the BOC's Collection District 8, Port of Subic and Collection District 2-B of the MICP, were required to be issued. These documents were needed for them to proceed with perfecting the contract with a freight forwarder that will handle and finalize the arrangements for the waste re-shipment back to Canada. Likewise, a report of inspection from the shipping lines indicating that the container vans are still seaworthy had to be transmitted to Canada. Furthermore, Canada required the fumigation and washing of the container vans containing the wastes prior to their shipment back to Canada.



Figure 7 MV Bavaria ships back 69 containers of mixed waste from Canada on 31 May 2019. [SCIS]

Immediately after compliance with all the said requirements on 31 May 2019, all of the containers were successfully shipped out of the Philippines. They arrived in the Canadian Delta Port in Vancouver on 29 June 2019.

NEXT STEPS

- Review and/or revise the bilateral agreement of the Government of the Philippines with the Government of the USA
- Programs to encourage e-waste collection
- Development of "Guidelines on the Environmentally Sound Management (ESM) of Waste Electrical and Electronic Equipment (WEEE)" to be released as a DENR Administrative Order
- Cost-benefit analysis on banning of importation of second-hand electronic equipment
- Intensify monitoring of importation of recyclable materials
- Review of the current policy on accepting entry of recyclable materials into the country

FOCAL OFFICE

Hazardous Waste Management Section

DENR – Environmental Management Bureau

Tel. No. - (632) 928 1212

MEETINGS ATTENDED

- Workshop of the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes, 6–8 November 2018; Akita, Japan – Ms. Florence Gonzales (EMB NCR), Ms. Lily Amor Castro (EMB Reg. 3)
- 8th International E-Waste Management Network (IEMN) Workshop, 24–29 September 2018; Manila, Philippines – hosted by DENR–EMB
- 13th Meeting of the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention (ICC-13), 8–10 September 2018; Geneva, Switzerland – Mr. Geri-Geronimo R. Sañez (EMB)
- Workshop on the Environmentally Sound Management (ESM) of E-waste for the Asia and Pacific Region and Forum on their Transboundary Movements under the Basel Convention, 21–24 January 2018; Beijing, China – Engr. Maria Leonie Lynn H. Ruiz (EMB), Ms. Marie Junn A. Cuasing (EMB Reg. 4A)
- Workshop of the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Waste, 28–30 November 2017; Hanoi, Vietnam – Mr. Geri-Geronimo R. Sañez (EMB)

- 7th International E-waste Management Network (IEMN) Workshop, 2–7 October 2017; Jakarta, Indonesia – Mr. Geri-Geronimo R. Sañez (EMB)
- Meetings of the Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions (BC COP-13, RC COP-8, SC COP-8), 24 April–5 May 2017; Geneva, Switzerland – Asst. Sec. Juan Miguel T. Cuna (DENR), Asst. Dir. Jacqueline A. Caancan, Mr. Renato T. Cruz and Mr. Geri-Geronimo R. Sañez (EMB)
- Asia Pacific Preparatory Meeting of the Conferences of the Parties to the Basel (13), Rotterdam (8), and Stockholm (8) Conventions, 6–10 March 2017; Bangkok, Thailand – Mr. Renato T. Cruz and Mr. Geri-Geronimo R. Sañez (EMB)
- Study Tour in Japan as part of the "Project Establishing Mercury Waste Treatment and the Processing Scheme in the Philippines, 30 January – 3 February 2017; Hokkaido, Japan – Asst. Dir. Jacqueline A. Caancan, Mr. Geri-Geronimo R. Sañez, Engr. Maria Leonie Lynn H. Ruiz (EMB)
- Project Meeting on Environmentally Sound Management of Mercury Waste, 15–16 November 2016; Bangkok, Thailand – Engr. Maria Leonie Lynn H. Ruiz (EMB)
- 6th International E-waste Management Network (IEMN) Workshop, 4–7 October 2016; Kuala Lumpur, Malaysia – Mr. Geri-Geronimo R. Sañez (EMB)
- Workshop 2016 of the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes and Small Group Brainstorming Meeting on the Implementation of Takeback Procedures in Asia, 5–8 September 2016; Semarang, Indonesia – Mr. Geri-Geronimo R. Sañez and Engr. Santini L. Quiocson (EMB)
- 10th Meeting of the Open-Ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (OEWG-10) and 12th Meeting of the Committee Administering the Mechanism for Promoting the Implementation and Compliance of the Basel Convention (ICC-12), 30 May to 2 June and 4–6 June 2016; Nairobi, Kenya – Mr. Geri-Geronimo R. Sañez (EMB)

SOURCES/RELEVANT LINKS

<http://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx> UNIDO. *Roadmap Towards a Sustainable Chemicals and Hazardous Waste Management by 2030*. Geneva, Switzerland, May 2018