

Umicore would like to thank the Basel Parties and the Secretariat for the opportunity to provide comments on the 'Draft Practical Manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements'¹

We recognize the enormous importance of Environmentally Sound Management (ESM), as enshrined and defined in the Basel Convention. Our daily operations are continuously focused on ensuring that hazardous and other wastes are managed in a way that will protect human health and the environment against the potential adverse effects of these wastes.

We recycle complex materials containing precious and other metals. Irrespective of whether they arrive as industrial byproducts or wastes, we consider them as secondary raw materials. Due to the outstanding capabilities of our recycling operations, it is worthwhile to ship those materials from all over the world to Belgium.

Our operations are managed in full transparency and cooperation with national and regional authorities. The Umicore activities are duly covered by permits, and audited at regular intervals by the authorities.

When it comes to shipping waste to our sites, as a result of our long track record, authorities have decided that they can rely on the 'pre-consent' provisions of OECD Decision C(2001)107² and the EU Waste Shipment Regulation³. This means that as importing country Belgium and its region Flanders give pre-consent to intended shipments to Umicore sites. When a notification for an intended shipment to a Umicore site is received, and after checking that the notification is in line with the requirements, the authorities almost automatically give their consent because they know that the recycling/recovery operations will be fully in line with ESM requirements.

This significantly cuts down the response times and really simplifies the notification procedure for all parties involved, without losing the opportunity to reject an intended incoming shipment should some element not be entirely compliant.

We are convinced that taking into account the existence of this 'pre-consent' practice can significantly simplify the necessary assessment of exporting, importing and transit countries when it comes to ensuring the application of ESM in notifications.

¹ The Revised Draft Practical Manual dates from 28/02/2019 and can be consulted as INF document 6 here: <http://www.brsmeas.org/2019COPs/MeetingDocuments/tabid/7832/language/en-US/Default.aspx>

² [https://one.oecd.org/document/C\(2001\)107/en/pdf](https://one.oecd.org/document/C(2001)107/en/pdf)

See section D.2 Functioning of the Amber Control Procedure.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1013-20180101&qid=1454069470717&from=EN>

See Article 14.

Importing countries that do apply pre-consent should communicate this clearly to all parties concerned. Under the EU Waste Shipment Regulation, European countries that rely on pre-consent should inform the European Commission⁴ and the OECD. Non-EU OECD states should also inform the OECD Secretariat if they choose to make use of the possibility to apply pre-consent (under OECD Decision C(2001)107)⁵

We would like to strongly ask the countries concerned to also inform the Basel Secretariat. This can then facilitate the assessment that Basel Parties should make, as exporting or transit country, of whether a notification for an intended TBM meets ESM requirements.

These data are, in any case, already publicly available. In December 2018, the OECD published the details on which countries apply pre-consent, to which sites, for which categories of waste, and for how long⁶. The Annex to this paper lists which countries currently apply pre-consent, and to how many sites.

Bearing in mind the above, Umicore would like to suggest the following amendments to the Draft Practical Manual to ensure notifications meet ESM:

- Under A. 'Competent authority of an exporting country': Section A.3.(c) (new) ADD §:

“(c)a (new) Determine if a site has received pre-consent from the importing country

After having fully established the nature of the recycling/recovery activities of a site, including that it meets all the necessary ESM requirements, and is properly permitted and audited, the authorities in an OECD country or EU Member State, can decide to grant pre-consent to the specific site. This is an additional, but quite unequivocal indication to an exporting and/or transit country that the intended shipment to this site, and the way it will be handled, meets ESM requirements.”

- Under A.3.(d) 'Potential resources for information about the disposal facility in the importing country': Section A.3.(d) 21.(k) (new) ADD §:

“(k)a (new) The spreadsheet made available by the OECD Secretariat on countries that grant pre-consent status to identified and listed sites⁷. This spreadsheet was last updated in December 2018”.

⁴ Article 14 § 3 of the EU WSR.

⁵ Chapter II, D.(2) (b), page 14

⁶ <https://www.oecd.org/env/waste/theoecdcontrolsystemforwasterecovery.htm>
Click on 'Access the database' at the top of the page.

⁷ <https://www.oecd.org/env/waste/theoecdcontrolsystemforwasterecovery.htm>
Click on 'Access the database' at the top of the page.

- Under B. 'Competent authority of a transit country': Section B.22a (new) (between §22 and §23) ADD § :

22a(new) An element that can contribute to the assessment by the competent authority of a transit country of whether an intended shipment will not lead to damage to the environment and human health is an evaluation of the intended transit mode.

A sea transit represents a much lower risk compared to transit by road. A sea vessel may call at port in a transit country but will normally not unload cargo. Considering the way large container vessels are loaded, it would also be very inefficient and unnecessarily complex to unload containers at a port that is not the intended destination.

Nevertheless, large sea vessels often call upon many ports, which increases the number of transit countries. But this should not be seen as increasing risks. We believe therefore that transit through sea could be approved without increasing safety risks for transit countries. And ESM will be ensured in particular if the final destination is a pre-consented facility. In such cases, approval through tacit consent seems a sensible way forward to expedite procedures and simplify bureaucracy for all parties concerned (without losing control or the 'rejection' option).

For cargo that transits through road, we recommend the competent authority of a transit country to assess the safety risks specific to their local circumstances (eg risk of illegal dumping and/or 'cherry picking' and sub-standard treatment) and organize safety measures and controls accordingly as needed. When hazardous waste is at the same time dangerous for transport, specific regulations apply and packaging and labelling should be compliant with ADR or other applicable transport regulations.

- Under C. 'Competent authority of an importing country': Section C.1.(c) a (new) ADD §;

Determine if the disposal/recycling/recovery site has been granted pre-consent status (see above section A.3.c (new)) (this is only potentially applicable if the importing country is an OECD country or an EU Member State)."

- Under C.2.(c): ADD after the 2nd sentence:

"An indication of the ESM capacity of the facility, and whether it has all the required authorizations and permits will be if it has been granted pre-consent status."

Annex : countries that apply pre-consent

Neither the 2001 OECD Decision, nor the EU Waste Shipment Regulation imposes or makes the practice of granting pre-consent mandatory. Giving pre-consent status to sites for disposal/recycling/recovery is an option that countries can choose to apply or not. And if they decide to use this option, pre-consent is only granted case-by-case based on the ESM merits of a particular site.

According to the OECD spreadsheet⁸ from 11 December 2018, the following countries apply pre-consent status to one or more sites within their jurisdiction:

Australia	1
Austria	9
Belgium	36
Canada	6
Estonia	1
France	7
Germany	83
Italy	6
Luxembourg	1
Mexico	18
Netherlands	42
Norway	5
Poland	17
Spain	30
Sweden	54
Switzerland	19
Turkey	2
UK	24

Bulgaria (EU Member State, non-OECD) 2

19 OECD countries apply pre-consent

12 EU Member States (plus the UK) give pre-consent

363 sites in total have been granted pre-consent