Note: What follows is the public solicitation notice which the Japanese Ministry of Economy, Trade and Industry (METI) posted in 2006 August, soliciting a contractor to research issues concerning bilateral or multilateral agreements that facilitate trade in wastes and used products, is the evidence of the Japanese government’s intent to weaken or circumvent the Basel Convention principles and decisions. In this solicitation of a research contractor, METI starts explaining how Japan has been implementing the Basel Convention obligations, and how the Japanese industries are currently voicing concerns over the obstacle the Basel is creating to the movements of hazardous electronic wastes between Japan and Asian developing countries (Note that Japan tends to seek two-way trades in wastes). Then the fact that many of those wastes that the Japanese industries want to trade are the Basel wastes makes it difficult for Japan to trade them. METI sees the “difficulty” as a problem and points to creating bilateral or multilateral agreements as a solution. The proposed research involves studying the existing bilateral or multilateral trade agreements that take into account the Article 11 of the Basel Convention, and then identifying issues concerning establishing bilateral or multilateral agreements in Asia 1) to allow Japan and other Asian countries to trade in hazardous wastes 2) only to allow Japan to IMPORT hazardous wastes from other Asian countries. The company who won this research contractor position is Shinko Research Co., LTD. What follows is a translation, with highlighting provided by the Basel Action Network.

Consignment of a research project on the current situation and issues concerning bilateral and multilateral agreements for trades in recyclable materials by Japanese Ministry of the Economy, Trade and Industry; the Industrial Science and Technology Policy and the Environment Bureau 2006 August

Public Solicitation Description

METI seeks to establish a sustainable recycling-oriented economic system in Asia (or a Sustainable Asia Based on the 3Rs) by promoting the effective use of resources and by preventing spread of environmental pollution in Japan and in Asian countries so as to achieve a regional sustainable development in Asia. To improve the infrastructure for the sustainable recycling-oriented economic system, METI proposes a research contract on the current situations and issues concerning the existing bilateral and multilateral agreements designed to facilitate exports and imports of recyclables. Those interested in doing the research should apply following the attached proposal guideline.

1. Research Objective

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal is an international treaty designed to protect human health and the environment from risks posed by hazardous and other wastes by setting up a framework to regulate movements of hazardous and other wastes between nations. It went into effect in 1992. Japan ratified the Basel Convention and integrated it into the
national waste management law system (the law is called the Basel Domestic Law). We have managed to make sure that the Basel Convention is implemented in an appropriate and smooth way, taking a series of measures through the Basel Domestic Law to regulate import, export, transfer and disposal of hazardous wastes, such as approval of exports and imports of hazardous wastes under the foreign exchange low, and enforce equipment of documents relevant to transboundary movements required by the Basel Convention.

On the other hand, as the economy has been dramatically booming lately, a number of Japanese companies have expanded to Asian countries. They are now facing a problem with disposal and recycle of hazardous waste generated at their foreign facilities. Also, it is considered that, due to the global spread of electronic products such as computers, there will be an increase in obsolete electronic equipment, so-called e-waste, which contains hazardous components such as lead and mercury. In Asia, few countries have facilities and infrastructure to properly dispose and manage those hazardous wastes. And many of the electronic products prevailing in Asia are Japanese brand. For those reasons, the Japanese electronic industry wants to import the hazardous wastes into Japan and dispose and recycle them in an appropriate manner using advanced 3Rs technologies. This request from the industry actually match the idea of establishing a sustainable Asia based on the 3Rs that METI (Working Group on Enhancing International Recycling, Waste Prevention and Recycling Sub-committee, Industrial Structure Council) proposed in order to prevent the spread of environmental pollution and to promote the effective use of resources and materials by controlling (or suppressing) resource consumption.

The wastes discussed above are considered hazardous wastes that the Basel Convention regulates. Transferring them between the Basel Parties is not easy because there is variation in definitions of wastes between countries, and because it requires time for governments to notify and send or receive acceptance or denial regarding the transboundary movement of hazardous wastes. Furthermore, in the first place, it is banned to trade hazardous wastes between the Basel Parties and non-Parties.

To solve this kind of problems, other countries use bilateral, multilateral or regional agreements stipulated in the Article 11 of the Basel Convention. While the Basel Convention secretariat has been informed of several bilateral and multilateral agreements based on the Article 11, there is no detailed study of the contents of those agreements (ex., differences in contents or in procedures between the Basel Convention and the agreements etc.) or of legal aspects of the agreements (ex., domestic enforcement of the agreements, the relationship between domestic Basel laws of concerned countries and the agreements).

The proposed research project involves studying and analyzing issues regarding bilateral and multilateral agreements designed to provide a proper way of transfer, disposal, and recycle of hazardous wastes, which result in environmental pollution prevention and effective resource utilization. This should be done with an eye to a possibility of establishing such agreements between Japan and Asian countries in the future.
2. Proposed Research

Based on the objective, the following research needs to be conducted.

JPYen 10,000,000 (about $80,000) (including tax) will be provided for receiving this contract work. Actual contract price will be decided based on proposal in negotiation with METI.

(1) Research on bilateral, multilateral, and regional agreements signed based on the Article 11 of the Basel Convention

Conduct exhaustive research on the following aspects of all the bilateral and multilateral agreements reported to the Basel Secretariat

(1) Purposes of signing the agreements
   a. Contents (i.e. differences from the Basel Convention)
      • Ranges of wastes covered by the agreements and processes
      • Contents and processes unique to the agreements
   b. Legal positions of the agreements
      • Domestic implementation of the agreements— how implementation is secured in signatory countries
      • Requirements for agreements to be “compatible with the environmentally sound management of hazardous wastes and other wastes as required by” the Article 11 of the Basel Convention

(2) Analyze BCS’s view of and principle for implementing the Article 11

(3) Taking into account and reflecting the preceding research, list and analyze issues concerning establishing bilateral or multilateral agreements in Asia i) to allow Japan and other Asian countries to trade in hazardous wastes, ii) only to allow Japan to IMPORT hazardous wastes from other Asian countries.

(4) Produce a report on research findings and conclusions

Note: Research needs to be done through participation of experts knowledgeable about laws and treaties, and to be based on appropriate research and analysis methods for each research item

3. Selection Criteria

4. Contract Condition

5. Application Guideline

6. Others

END

Translated by Yuka Takamiya, BAN