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COUNCIL

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Council

**DRAFT RECOMMENDATION OF THE COUNCIL ON THE ENVIRONMENTALLY SOUND
MANAGEMENT (ESM) OF WASTE**

(Note of the Secretary-General)

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1. The present document includes the text of a draft Council Recommendation on the Environmentally Sound Management (ESM) of Waste.
2. The text was endorsed by the Working Group on Waste Prevention and Recycling in March 2004 and by the Environment Policy Committee on 22 April 2004.
3. Consequently, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document C(2004)100;
- b) adopted the Draft Recommendation of the Council on the Environmentally Sound Management (ESM) of Waste, as set out in C(2004)100, and agreed to its declassification.

**DRAFT RECOMMENDATION OF THE COUNCIL ON THE
ENVIRONMENTALLY SOUND MANAGEMENT (ESM) OF WASTE***

THE COUNCIL,

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to Decision-Recommendation C(90)178/FINAL of 31 January 1991 on the Reduction of Transfrontier Movements of Wastes;

Having regard to Decision C(2001)107/FINAL issued in May 2002¹, which is a revision of Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations;

Having regard to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989, in particular Article 4 of this Convention;

Having regard to the “Guidance Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes Subject to the Basel Convention”, the “Guidance Document on Transboundary Movements of Wastes destined for Recovery Operations”; and the Basel Declaration on Environmentally Sound Management adopted by Ministers at the 5th Meeting of the Conference of the Parties in December 1999;

Agreeing that the implementation of environmentally sound and economically efficient management of waste should achieve the following objectives:

1. sustainable use of natural resources, minimisation of waste and protection of human health and the environment from adverse effects that may result from waste;
2. fair competition between enterprises throughout the OECD area through the implementation of "core performance elements" (CPEs) by waste management facilities, thus contributing to a level playing field of high environmental standards;
3. through incentives and measures, diversion of waste streams to the extent possible from facilities operating with low-standards to facilities that manage waste in an environmentally sound and economically efficient manner;

* For the purpose of this Recommendation, wastes are substances or objects, other than radioactive materials covered by other international agreements, which:

- (i) are disposed of or are being recovered; or
- (ii) are intended to be disposed of or recovered; or
- (iii) are required, by the provisions of national law, to be disposed of or recovered.

Reference: OECD Decision C(2001)107/FINAL
Considering this definition of waste, “waste management facilities” include recovery facilities.

¹ This Decision was adopted in two steps by the OECD Council: Decision C(2001)107 was adopted on 14 June 2001 without section C of Appendix 8 to the Decision. Section C, which includes the forms for the notification and movement documents and the instructions to complete them, was adopted on 28 February 2002 as Addendum 1 to Decision C(2001)107. Section C was then incorporated into Decision C(2001)107 to form one single Act which was released as Decision C(2001)107/FINAL in May 2002.

On the proposal of the Environment Policy Committee,

RECOMMENDS that Member countries elaborate and implement policies and/or programmes to ensure that waste be managed in an environmentally sound and economically efficient manner. Domestic policies and/or programmes implemented under this Recommendation shall not lead to or create unnecessary obstacles to international trade of waste destined for recovery operations.

For the purpose of this Recommendation, taking into account the size of the enterprise, especially the situation of small and medium size enterprises (SMEs), the type and amount of waste, the nature of the operation and their domestic legislation, Member countries should:

1. have an adequate regulatory and enforcement infrastructure at an appropriate governmental level, consisting of legal requirements such as authorisations/licences/permits, or standards;
2. develop and implement practices and instruments that facilitate the efforts of competent authorities to monitor the implementation of the CPEs listed in Annex I to this Recommendation and control compliance of waste management activities with applicable national and international rules and regulations. In case of non-compliance with existing rules, prompt, adequate and effective actions should be undertaken;
3. ensure that waste management facilities are operating according to best available techniques² while taking into consideration the technical, operational and economic feasibility of doing so, and work towards continually improving environmental performance;
4. encourage, through appropriate measures, information exchange between producers, waste generators, waste managers and authorities, including participation in sectoral trade or industry association activities addressing these issues, in order to foster waste prevention, optimise recovery operations and minimise quantities as well as potential risk of waste destined for disposal or recovery;
5. integrate into national policies and/or programmes the core performance elements listed in Annex I to this Recommendation, which constitute the basic requirements to ensure environmentally sound management of waste;
6. consider incentives and/or relief measures for facilities that fulfil the core performance elements listed in Annex I to this Recommendation;
7. implement the technical guidance for environmentally sound management of waste that has been developed by the OECD and, where appropriate, work towards the implementation of other ESM guidance referred to in Annex III to this Recommendation;
8. move towards internalisation of environmental and human health costs in waste management, taking into account the differences between hazardous and non-hazardous waste;
9. provide incentives to take part in environmentally sound recycling schemes;

² Use of best available techniques implies the use of technology, processes, equipment and operations that are based on scientific knowledge, whose functional value has been successfully tested in operative comparable plants.

10. encourage the development and implementation of an environmental liability regime for facilities that carry out risky or potentially risky activities to ensure adequate measures upon definite cessation of activities and to prevent environmental damage;
11. ensure that the implementation of the core performance elements listed in Annex I to this Recommendation does not discourage recycling in Member countries, recognising, in particular, the flexibility appropriate for each Member country to increase the rates of environmentally sound recovery of low risk waste.

INSTRUCTS the Environment Policy Committee to:

12. update as necessary the Core Performance Elements listed in Annex I to this Recommendation;
13. update as necessary the existing technical guidance for ESM of specific waste streams listed in Annex II to this Recommendation according to technological progress and develop technical guidance deemed useful for additional waste streams;
14. report to the Council, on the basis of the information received from Member countries, three (3) years after the adoption, on the implementation of this Recommendation.

ANNEX I

CORE PERFORMANCE ELEMENTS FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF WASTE.

Waste management facilities, including recovery facilities, should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of applicable international agreements, principles, objectives and standards, take due account of the need to protect the environment, public health and safety, and generally conduct their activities in a manner contributing to the wider goals of sustainable development.

In particular, taking into account the size of the enterprise, especially the situation of SMEs, the type and amount of waste, the nature of the operation and domestic legislation, the following core performance elements would apply to waste management facilities:

1. <i>The Facility Should Have an Applicable Environmental Management System (EMS) in Place</i>
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As an underlying principle of ESM, waste management facilities should have an applicable environmental management system (EMS) in place. A fully developed EMS should be certified by a recognised party and should include:

- Measurable objectives for continual improvements in environmental performance, including periodic review of the continuing relevance of these objectives;
- Regular monitoring and re-examination of progress toward environmental, health and safety objectives;
- Collection and evaluation of adequate and timely environmental, health and safety information regarding facility activities;
- Provisions included in CPEs 2-6;
- Applicable ESM technical guidance.

Licensed/authorised/permited waste management facilities should be subject to periodic inspections and/or audits, normally on an annual basis, by a recognised independent auditor. The auditor shall:

- verify the conformance of the facility with CPEs 2 to 6, relevant environmental regulations, and, if applicable, current EMS systems, such as the ISO 14 001 Environmental Management or the European Community Eco-Management and Audit Scheme (EMAS), or any other equivalent national or sub-national system;
- assess the performance of the facility regarding environmental, health and safety aspects against measurable objectives.

The facility should make publicly available an annual report describing the firm's EMS system and the achieved environmental, health and safety performance.

Concerning SMEs, the procedures for achieving certification/registration and reporting should be simplified in comparison with large facilities. Because regular audits may create a burden and impose excessive costs on SMEs, their audits should be less complicated and could be carried out less frequently (normally every three years) than those of large facilities, while being consistent with the need to maintain an ESM of waste. Also the environment, health and safety report could be made publicly available every three years.

In addition, there are domestic EMS systems which are specifically tailored to address the needs of SMEs. Whatever EMS system will be selected, it is recommended that the government or large companies have a programme in place to provide support for SMEs in terms of information and know-how sharing.

2. The Facility Should Take Sufficient Measures to Safeguard Occupational and Environmental Health and Safety

Workers of facilities should not be exposed to unacceptable occupational health and accident risks, related to the content of the materials they are handling, emissions from those materials and the equipment being used. The waste may include hazardous chemicals or toxic metals; they may emit toxic gases or release harmful dust. Workers may have to handle heavy loads, be exposed to vibration and noise of machinery. Also, the risk of fire, explosion, etc. may exist in some cases. Consequently, adequate measures should be taken to avoid unacceptable occupational health and safety risks.

People living and working in the vicinity of a waste management facility should also not be exposed to unacceptable environmental health and accident risks. These risks relate mainly to the emissions, including noise, from the process and transport to and from the facility. Therefore, adequate measures should also be taken to minimise these impacts to human health. Adequate measures may include national as well as international regulations, agreements, principles and standards, whether mandatory or voluntary.

3. The Facility Should Have an Adequate Monitoring, Recording and Reporting Programme

The facility should have a monitoring and recording programme which covers:

- relevant legal requirements, including key process parameters;
- compliance with applicable safety requirements;
- effluents and emissions; and
- incoming, stored and outgoing waste, in particular hazardous waste.

All relevant environmental records should be maintained and made available to competent authorities according to national legislation and/or local authorisation/license/permit requirements. Waste management facilities should maintain records on the generation, collection, recovery or disposal of waste, its types and amounts which are to be made available to the competent authorities upon request.

On-site recovery or disposal of waste generated by the process concerned must be carried out in compliance with applicable laws and regulations and should be recorded appropriately. In case of off-site recovery or disposal, outgoing waste should be recorded appropriately and handed over only to environmentally sound recovery and/or disposal operations.

Upon request, and taking into account business confidentiality and the protection of intellectual property rights, reliable information on the activities of the facility that may impact the environment or the health and safety of personnel should be made available to the public in a reliable and timely manner.

4. The Facility Should Have an Appropriate and Adequate Training Programme for the Personnel

The facility should have training in place for proper identification and handling of any hazardous components in incoming waste. Personnel involved in the management of waste and materials, in particular hazardous waste and materials, should be capable and adequately trained to be able to properly handle the materials, equipment and processes, eliminate risk situations, control releases and carry out safety and emergency procedures.

The facility should define and document the responsibility, authority and interrelations of key personnel who manage, perform and monitor the activities which may have adverse effects on the environment.

Adequate operative training programme for the personnel should be in place and properly documented.

5. The Facility Should Have an Adequate Emergency Plan

The facility should have a regularly updated plan for monitoring, reporting and responding to accidental or otherwise exceptional pollutant releases, including emergencies such as accidents, fires, explosion, abnormal operating conditions etc. The emergency plan should be based on the evaluation of existing and potential risks. An emergency co-ordinator should be designated to handle hazardous wastes. Large facilities would need a complete contingency plan. The plan should cover both short-term and long-term remedial activities. SMEs whose operation presents little or no risk would need a significantly more limited emergency plan. Any emergency plan should be periodically reviewed by the relevant authority and/or external auditor. Particularly, in case of SMEs the reviewing body could be the local fire fighting agency or corresponding municipal authority. This plan should be regularly tested and revised as appropriate, in particular after the occurrence of accidents or emergency situations.

6. The Facility Should Have an Adequate Plan for Closure and After-care

Generally, the facility should have an adequate plan for closure and after-care. The need for closure plans and financial guarantees is determined by applicable laws and regulations, taking into consideration the level of risk. Closure plans should be updated periodically and financial guarantees should ensure that the necessary measures are undertaken upon definite cessation of activities to prevent any environmental damage and return the site of operation to a satisfactory state, as required by the applicable laws and regulations.

REVIEW AND UPDATE OF THE CORE PERFORMANCE ELEMENTS FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF WASTE

The core performance elements of the OECD for environmentally sound management (ESM) of waste should be periodically reviewed in order to adapt them to technical development. The OECD's Working Group on Waste Prevention and Recycling (WGWPR) would make proposals for this purpose as needed.

ANNEX II

**TECHNICAL GUIDANCE DEVELOPED BY OECD FOR THE
ENVIRONMENTALLY SOUND MANAGEMENT OF SPECIFIC WASTE STREAMS**

Technical guidance for the environmentally sound management of the following waste/material streams has been developed (see: <http://www.oecd.org/env/waste>):

- i) Used and scrap personal computers [ENV/EPOC/WGWPR(2001)3/FINAL]*

ANNEX III

OTHER SELECTED TECHNICAL GUIDANCE FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF SPECIFIC WASTE STREAMS

“Technical guidelines” for the environmentally sound management of specific waste streams have also been developed by the Basel Convention and other international organisations and are considered useful for the implementation of the OECD Council Recommendation on ESM and the core performance elements:

15. Technical guidelines for the environmentally sound management of biomedical and healthcare waste. Basel Convention, 2002.
16. Technical guidelines for the environmentally sound management of the full and partial dismantling of ships. Basel Convention, 2002.
17. Technical guidelines for the environmentally sound management of waste lead-acid batteries. Basel Convention, 2002.
18. Technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal. Basel Convention, 2002.
19. Technical guidelines on the identification and management of used tyres. Basel Convention, 1999.
20. Pollution Prevention and Abatement Handbook. World Bank, 1998.