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Guideline on appropriate treatment and traceability of green-listed waste for Japan Mining Industry Association member companies' non-ferrous metal smelters

1. Outline

Japan's Act on the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes (hereinafter, the "Basel Act") was amended in June 2017. As a result, it was decided that the importing procedures will be simplified for green-listed waste imported from non-OECD member countries, on the condition that it is brought into facilities where appropriate waste treatment is in place.

However, there are concerns over possible international as well as domestic misunderstanding and misconception that "Japan has no specific procedures" for such waste, which may in turn lead to potential misuse of the system for illegal trading, ultimately undermining the credibility of Japan and its mining industry. A traceability system to ensure that such waste is brought into appropriate facilities is necessary.

As a voluntary activity, the Japan Mining Industry Association (hereafter "JMIA") has established the following guidelines for non-ferrous metal smelters on ensuring appropriate waste treatment and traceability.

This guideline is applicable to imports of green-listed waste, whether its origin is an OECD member or non-member country.

2. Definitions of terms and requirements

1) Applicable Smelter

A business establishment in Japan owned by a JMIA member company (including its subsidiary and affiliate) that: has facilities capable of recovering valuable metals, including copper, gold, and silver, from green-listed waste, such as e-scrap, in an appropriate manner and in compliance with the Japanese laws; and has continuously been carrying out appropriate treatment for a period of three or more years.

2) Applicable Pretreatment Operator

A Japanese business operator that carries out pretreatment of waste, including shredding, sorting, and incineration, before it is treated at an Applicable Smelter. It needs to: be carrying out pretreatment in compliance with the Japanese laws and in

an environmentally friendly manner; have a contractual relationship with an Applicable Smelter; and have a Business Partner code assigned to it.

3) Applicable Trading Company

A business operator that is engaged in trading abroad to procure materials for an Applicable Smelter or Applicable Pretreatment Operator. It needs to be: collecting and transporting materials in compliance with the laws, Japanese and otherwise, and in an environmentally friendly manner; have a contractual relationship with an Applicable Smelter; and have a Business Partner code assigned to it.

4) Business Partner

A business operator that has a business relationship, directly or indirectly, with an Applicable Smelter, such as a trading company, Japanese or overseas business partner, and Pretreatment Operator.

5) National Government

The Ministry of Economy, Trade and Industry and the Ministry of the Environment of Japan.

6) Competent Authorities (CA)

A governmental authority designated to represent the country, as defined in Article 2.6 of the Basel Convention. In Japan, the Ministry of the Environment is the Competent Authority.

3. Matters to be implemented

1) Applicable Smelter shall declare in writing to JMIA that it should abide by this Guideline. It shall manage its treatment facilities (such as equipment to recover valuable metals and system to treat effluent, exhaust gas, and residue), and endeavor to ensure traceability.

2) Applicable Smelter shall include in contract documents with its Business Partners such as Applicable Trading Companies a statement that this Guideline is to be abided by.

3) JMIA shall assign a Smelter code to each of Applicable Smelters.

4) Applicable Smelter shall assign a Business Partner code to each of the business operators engaged in commercial transactions [of green-listed waste] abroad, regardless of whether such a business operator is the Applicable Smelter itself or other trading firm. It shall also disclose its Smelter code and issue a certificate that lists the codes.

5) A business operator engaged in commercial transactions [of green-listed waste] abroad shall present a certificate to its overseas business counterpart to clarify that

the materials would be treated in Japan.

- 6) A business operator engaged in commercial transactions [of green-listed waste] abroad shall, when importing e-scrap, request its overseas business counterpart that the procedures be taken using the HS Code of 7112.99-000 (scrap of silver [including scrap of metal clad with silver], and other types of scrap containing precious metal or precious metal compound of a kind used principally for the recovery of precious metal), in order to help increase the accuracy of import statistics.
- 7) Applicable Smelter shall report to JMIA its environmental and recycling business results and import volume of green-listed waste for the previous fiscal year.
- 8) JMIA shall compile these results into a “Current state of environmental business” and report it to the National Government every year.
- 9) Applicable Smelter and its domestic or overseas Business Partner shall include their respective Smelter code and Business Partner code in documents that prove the flow of materials, such as shipping advice, receipt, and transport request. These documents should be stored for a period of three years, and submitted to the National Government if so requested by it.
- 10) Once a commercial transaction has been sealed, Applicable Smelter and business operator engaged in commercial transactions [of green-listed waste] abroad shall respond with sincerity to any inquiry from an overseas party or the National Government. For instance, an Applicable Smelter shall send a notification on the disposal to the exporter and to the overseas Competent Authorities (CAs).¹⁾ It shall also provide a notification on the disposal to any inquiry from an external certification body concerning final treatment.
- 11) JMIA shall post information about the current state of environmental business on its website, and update the data every year.
- 12) Applicable Smelter shall check on the use of Business Partner codes once every year, and have a code that is not in use, if any, returned.
- 13) JMIA shall check on the use of Smelter codes once every year, and have a code that is not in use, if any, returned.
- 14) Applicable Smelter shall, when starting transaction with a new trading firm, use a trial code for such a trading firm and follow its own corporate rules until the latter's credibility has been established through credibility check.²⁾
- 15) Applicable Smelter shall immediately report to JMIA if any improper case, such as use of a code it has not issued, has come to its attention. JMIA will in turn report it to the National Government.

JMIA will request the Applicable Smelter that the latter stop dealing with the Business Partner in question, and alert all those concerned to the matter by sharing the information with them.

- 16) This Guideline shall be made public on the JMIA website.
- 17) Where a trading firm or an overseas Business Partner has multiple levels of subsidiaries, i.e. first-, second-, third-tier subsidiaries, and so on, their transaction documents should use the Applicable Smelter code and the Business Partner code originally issued by the Applicable Smelter.
- 18) If an Applicable Smelter is found to have violated the Japanese laws and carried out improper treatment, JMIA may cancel the Smelter code that has been assigned to the Applicable Smelter in question.

Note 1) A notification on the disposal is not required under the Basel Act if a movement document has not been issued by the exporting country.

Note 2) Examples of matters to be checked on a potential Business Partner or its flows of transactions include any connection with “antisocial forces,” bribery of foreign civil servants, secure deliveries of goods, etc.

4. Routine review and improvement of the Guideline

This Guideline shall be reviewed at least once a year by JMIA's working committee on recycling, and JMIA shall revise the Guideline if deemed necessary. Any matter not stipulated in the Guideline shall be discussed and considered separately by JMIA.

(Establishment and revisions of the Guideline)

Established February 15, 2018