

出國報告(出國類別：出席國際會議)

出席「第十三屆巴塞爾公約締約國大會」

服務機關：行政院環境保護署

姓名職稱：蘇國澤 副處長

派赴國家：瑞士日內瓦

出國期間：106年4月26日至5月4日

報告日期：106年7月17日

摘要

第十三屆巴塞爾公約締約國大會(COP13)於 2017 年 4 月 28 日至 5 月 2 日在瑞士日內瓦舉行。

本屆巴塞爾公約締約國大會會議重點包括：

1. 討論持久性有害廢棄物技術處理。
2. 管制有害廢棄物之排放及使用。
3. 卡塔基納廢棄物預防宣言。
4. 電子電器廢棄物及使用過電子電器設備越境轉移技術準則，特別是關於巴塞爾公約廢棄物與非廢棄物之區別。
5. 法律用語明確性。
6. 2018 至 2019 年開放式工作組會議之工作計畫與執行。
7. 電腦設備夥伴計畫討論、規劃成立新的行動計畫。

此次主要參與第十三屆巴塞爾公約締約國大會(COP13)，並關注本屆討論議題，同時透過與各國代表會談，針對廢棄物管理及其他各項環保議題進行交流。

目 錄

	頁數
壹、 目的.....	1
貳、 過程.....	2
一、 公約簡介	2
二、 行前準備	2
三、 巴塞爾公約之會議議程	4
四、 會議實況	5
五、 會議重點	6
六、 與會交流	10
參、 心得與建議	11
一、 心得.....	11
二、 建議事項	13
肆、 附件.....	14
附件 1 巴塞爾公約第 13 次締約國大會議程	
附件 2 周邊會議議程概要	
附件 3 卡塔基納宣言	
附件 4 執行卡塔基納宣言關於環境友善管理之意見修訂指導草案	
附件 5 持久性有機污染物環境友善管理技術準則	
附件 6 環境友善管理工作方案	
附件 7 環境友善管理責任延伸及調查結果對應於執行巴塞爾公約要點效益	
附件 8 違反巴塞爾公約規定的非法運送處理方式之指引	

附件 9 設備翻新再使用之壽命及提升製造技術不再使用可能危害環境之物質等建議

附件 10 電腦設備夥伴計畫

附件 11 關於越境轉移需符合公約雙邊多邊及區域協定之規定

附件 12 審查並檢視附件一、三、四、九文件之意見報告

附件 13 創造家庭廢棄物環境友善管理的新解決方案

附件 14 2018 年-2019 年工作計畫議程

圖 目 錄

圖 1 COP13 會議現場報到入口.....	5
圖 2 COP 13 會議現場與會情形.....	6
圖 3 與國際友人進行會談.....	10

表 目 錄

表 1 會議與會成員.....	2
表 2 與會行程(4 月 26 日至 5 月 4 日).....	3

壹、目的

隨著廢棄物越境轉移至他國處理的情形日益頻繁，為確保廢棄物於運送過程不會造成二度環境污染與落實廢棄物之流向追蹤，1989 年聯合國環境署於瑞士巴塞爾召開管制有害廢棄物跨國境移動及處置公約簽定大會，共 116 國參與，並締結「巴塞爾公約」，迄今已有 186 個國家及組織締結此公約。

我國於制定環保相關法規與推動廢棄物管理政策時，均參考各先進國家之立法經驗，期與國際接軌，惟網路上之公開資料相當有限，需透過實際國際參與，及實務交流，才能取得完整之資訊。

我國雖非公約締約國，但自 2000 年以來均派員參與本公約締約國大會及相關會議，瞭解國際間對廢棄物越境管理之發展，並增加我國廢棄物管理成果於國際舞台交流機會，其目的在於：（1）取得更為完整之國際資訊，以供我國環保主管機關決策參考；（2）提供國際公約最新發展趨勢及公約技術準則內容，以協助國內相關單位或產業掌握國際發展動脈；（3）爭取參與空間及適時展示我國成果，以提升我國廢棄物越境管理及國際合作之契機。

貳、過程

一、公約簡介

為解決廢棄物跨國運送衍生之環保及健康問題，在聯合國推動下，於 1989 年完成控制有害廢棄物越境轉移及其處置之巴塞爾公約 (Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal)草擬作業及 105 個國家之簽署，並於 1992 年正式生效。巴塞爾公約宗旨：

- (一) 減少有害廢棄物之產生，並避免跨國運送時造成的環境污染。
- (二) 提倡就地處理有害廢棄物，以減少跨國運送。
- (三) 妥善管理有害廢棄物之跨國運送，防止非法運送行為。
- (四) 提升有害廢棄物處理技術，促進無害環境管理之國際共識。

公約組織共分為三大架構，包含締約國大會、秘書處與附屬機構。此公約最高決策機構為締約國大會，並於每 2 年舉辦 1 次會議，藉由締約國大會之舉辦，審查評估世界各國對於公約執行之成果，以及審議並通過對公約相關之修正方案與成立執行公約所需之附屬機構。

二、行前準備

本次會議期間為 2017 年 4 月 24 日至 5 月 5 日，我國參與會議行程為 4 月 28 日至 5 月 2 日。與會成員、行程及行前準備摘要如下。

(一) 與會成員：如表 1 所示。

表1 會議與會成員

姓名	單位	職稱	任務分工
蘇國澤	環保署廢棄物管理處	副處長	國際交流、專題討論
林錕松	元智大學	教授	國際交流、議題規劃 及研析
王鴻博	成功大學	教授	國際交流、專題參與 (周邊會議)

(二) 與會行程：如表 2 所示。

表2 與會行程(4月26日至5月4日)

日期	地點	內容
4 月 26 日－27 日	臺北至法蘭克福再轉機至瑞士日內瓦	啟程
4 月 27 日－5 月 2 日	瑞士日內瓦	COP 13 與會
5 月 3 日－4 日	瑞士日內瓦至法蘭克福再轉機至臺北	返程

(三) 行前準備

1. 取得會議資訊：至巴塞爾公約網站下載相關會議文件，以掌握本次會議重點，相關會議時間，以及我國關切議題資訊。
2. 蒐集國內完整資訊：
 - (1). 搭配會議議題及規劃研析議題，彙整國內執行現況。
 - (2). 依據會議內容先進行相關主題研究，了解各國對應方式。
3. 維繫國際人脈：規劃透過周邊會議與專題討論，與各國代表團分享交流廢棄物管理施行成果，同時維繫國際人脈；且於行前先與多國相關領域代表聯繫以期能促成更多的交流及管理成果。

三、巴塞爾公約之會議議程

(一) 會議開幕

(二) 組織事項

1. 通過議程

2. 安排工作

(三) 公約會議事項

1. 策略性議題

(1). 審查各締約國於執行卡塔基納廢棄物預防宣言之狀況。

(2). 透過印度尼西亞及瑞士所倡議的方法，改善巴塞爾公約的效率。

2. 科學與技術事項

(1). 更新持久性有機污染物之相關技術準則，並且修編「斯德哥爾摩公約」關於化學品具體技術準則之相關附件。

(2). 對巴塞爾公約各項附件提出變更申請。

(3). 進一步區分廢棄物與非廢棄物分類及危險制定準則工作。

(4). 國家報告。

3. 法律、管理及強制執行問題

(1). 與委員會的管理機制促進協商履約。

(2). 國家法規，公約的執行和打擊非法販運的努力。

4. 技術支援

(1). 技術能力建立。

(2). 巴塞爾公約區域中心及協調中心。

(3). 關於依公約基金 V/32 號決定協助需要技術支援之國家執行情況。

5. 國際合作與協調

(1). 巴塞爾公約夥伴關係方案。

(2). 巴塞爾公約與國際海事組織之合作事項。

6. 財政報告

7. 開放式工作組 2018 年至 2019 年之兩年期工作方案

(四) 工作方案及預算

(五) 第 14 次締約國大會地點及日期

- (六) 其他事項
- (七) 通過報告
- (八) 會議閉幕

四、會議實況

(一) 會議進行方式

每日會議分為 10 a.m.–1 p.m. 及 3 p.m.–6 p.m. 二時段進行，會議議程如附件 1，同時亦安排多場次周邊會議(Side Event)，與會者可視目標任務及議題關聯性自由參加周邊會議，周邊會議議程如附件 2。



圖 1 COP13會議現場報到入口



圖 2 COP 13會議現場與會情形

五、會議重點

會議的主要成果包括擬通過六項持久性有機污染物廢棄物技術準則(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants)及討論關於印度尼西亞 - 瑞士國家主導倡議之後續行動(Follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention)、卡塔基納宣言(Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes)、技術援助以及為家庭垃圾創造環境友善管理解決方案(Creating innovative solutions through the Basel Convention for the environmentally sound management of household waste)等。會議討論重點摘述如下：

(一) 就環境友善管理之工作指引(Draft work programme of the expert working group on

environmentally sound management)發展和卡塔基納宣言(宣言內容如附件 3)做後續追蹤，包括研擬指導草案以協助締約方制訂有效策略執行預防和有害廢棄物及其他廢棄物的減量及其處置，以增進巴塞爾公約執行效率；另有關卡塔基納宣言部分，其係執行關於防止、減量及回收危險廢棄物及其他廢棄物之宣言，期望在制定各項政策時能將巴塞爾公約中關於廢棄物的環境友善管理之各項目標納入考量，且依據各方提出之意見修訂指導草案(如附件 4)。

(二) 研擬持久性有機污染物之各項技術準則草案，包括以下準則：

1. 關於由持久性有機污染物組成、含有此類物質或受其污染的廢棄物執行環境友善管理的一般性技術準則(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants)；
2. 關於由六氯丁二烯組成、含有此類物質或受其污染的廢棄物執行環境友善管理的技術準則(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene)；
3. 關於由五氯苯酚及其鹽類和脂類組成、含有此類物質或受其污染的廢棄物執行環境友善管理的技術準則(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters)；
4. 關於由多氯聯苯、多氯三聯苯、多氯化萘或多溴聯苯（包括六溴代二苯）組成、含有此類物質或受其污染的廢棄物執行環境友善管理的技術準則(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls including hexabromobiphenyl)；
5. 關於由無意生產的多氯二苯並對二惡英、多氯二苯並呋喃、六氯苯、多氯聯苯、五氯苯或多氯化萘組成、含有此類物質或受其污染的廢棄物執行環境友善管理的技術準則(Technical guidelines on the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls, pentachlorobenzene or polychlorinated naphthalenes)；
6. 關於由下列農藥組成、含有此類物質或受其污染的廢棄物執行環境友善管理

的技術準則：艾氏劑、甲型六氯環己烷、乙型六氯環己烷、氯丹、十氯酮、狄氏劑、異狄氏劑、七氯、六氯苯、六氯丁二烯、林丹、滅蚊靈、五氯苯、五氯苯酚及其鹽類、全氟辛烷磺酸、技術硫丹及其相關異構體或毒殺芬，或作為工業化學品的六氯苯(Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dieldrin, endrin, heptachlor, hexachlorobenzene, hexachlorobutadiene, lindane, mirex, pentachlorobenzene, pentachlorophenol and its salts, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical)。

- (三) 修訂廢棄物環境友善管理實用手冊(Revised set of draft practical manuals for the promotion of the environmentally sound management of wastes)及工作方案草案，包含專業術語的解釋及定義，相關內容如附件 6。
- (四) 針對特定廢棄物流向及特性，將其環境友善管理責任延伸至生產者及製造業者，並制定實用手冊(Draft practical manuals on extended producer responsibility and financing systems for environmentally sound management)，且以線上的調查方式將結果對應於巴塞爾公約相關執行要點效益，相關內容可參考附件 7。
- (五) 提供更明確的法律：與促進公約履行與遵守機制之委員會合作，包含違反巴塞爾公約規定的非法運送處理方式之指引(Membership of the Committee Administering the Mechanism for Promoting Implementation and Compliance)(如附件 8)。
- (六) 印度、挪威及資訊技術產業委員會(Information Technology Industry Council, ITI)就上屆大會(COP12)臨時性通過之電子電器廢棄物及使用過電子電器設備越境轉移技術準則，特別是關於巴塞爾公約廢棄物與非廢棄物之區別(Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste)提出建議，其共通點皆著重於設備及經翻新再使用二手設備之使用壽命、及設備製造技術提升不使用可能危害環境之物質等建議，相關內容如附件 9。
- (七) 電腦設備夥伴計畫(Partnership for Action on Computing Equipment, PACE)的後續追蹤進度：報告執行事項並通過舊廢電腦設備環境友善管理問題指導文件(Guidance document on environmentally sound management of used and end-of-life computing equipment)的第 1、2、4、5 節；工作組已完成各項工作，後續事項由秘書處接掌，簡要說明如下：

1. 擬通過舊廢電腦設備環境友善管理指導文件第 3 節(舊廢電腦設備之越境轉移)以及為保持指導文件通篇一致性而提議的補充修改，並撤銷舊廢電腦設備越境轉移指導內容；
 2. 邀請締約方和簽署方使用舊廢電腦設備環境友善管理指導文件（修訂後已納入上文提到的第 3 節和補充修改）以及夥伴關係工作組編寫的準則、手冊和報告；
 3. 因夥伴關係工作組已經成功地履行了各項職責，擬就此解散，今後可能需要開展的任何後續任務將由秘書處完成，有關締約方、簽署方、業界、非政府組織和其他利益攸關方將參與該小組的工作；
 4. 請巴塞爾公約區域中心和協調中心(Basel Convention regional and coordinating centres)在必要時提議進一步制定電腦設備夥伴計畫後續夥伴關係的構想。
- (八) 禁止越境轉移，包括禁止締約國將危險或有害廢棄物轉移至非締約國及各締約國之間的轉移需符合公約第十一條雙邊、多邊及區域協定之規定，相關內容可參考附件 11。
- (九) 就締約方及其他各方提交關於巴塞爾公約附件四(Annex IV)以及附件九(Annex IX)相關方面之審查工作進行審查並檢視附件一(Annex I)和附件三(Annex III)審查工作之概念文件的意見報告(如附件 12)。
- (十) 持續關注含汞廢棄物及電子廢棄物、持久性有機污染物之後續流向、處理及管理。
- (十一) 敦促各締約方履行巴塞爾公約第 4 條第 4 款和第 9 條第 5 款規定之義務，包括更新或制訂關於控制有害廢棄物越境轉移的嚴格立法，以及在其國家立法中納入對非法販運有害廢棄物和其他廢棄物行為的適當懲處或處罰，並邀請各締約方通過秘書處分享關於預防和打擊非法販運最佳做法的資訊，並使用規定用於已確認非法販運案件的表格向秘書處報告已確認的非法販運案件。
- (十二) 針對家庭廢棄物之環境友善管理創建一個新的合作夥伴關係：
1. 設立家庭廢棄物夥伴關係工作組(Draft concept note and terms of reference for the household waste partnership)，在不限成員名額工作組的指導下，在非正式小組制定的有關家庭廢棄物的職權範圍內，負責監督與夥伴關係活動的執行相關的組織事項，包括建立專案組和審查其工作成果和報告，充當資訊分享的平臺，在夥伴關係開展的活動中帶頭進行提高認識、外聯和協調的工作；
 2. 家庭廢棄物夥伴關係工作組及其下所設各項目組所應執行工作包括編製家庭廢棄物環境友善管理的總體指導文件、收集來自不同區域且涉指導文件相關議題之案例研究、提高民眾對於家庭廢棄物環境友善管理之環境意識並鼓勵民眾參與相關活動及決策，並鼓勵與其他同樣致力於家庭廢棄物管理之組織進行協調並合作，其中指導文件之內容將包含：(1)家庭廢棄物環境友善管理

方面之最佳做法；(2)機械生物處理、能源回收、衛生掩埋場管理和各類廢棄物流的分隔處理；(3)評估現有的廢棄物管理系統、決策、確保家庭廢棄物得到環境友善管理。

(十三) 制定 2018 年-2019 年工作計畫議程，如附件 14。

六、與會交流

會議中與多國家與會代表交流，包括新加坡、日本、瓜地馬拉、荷蘭、比利時等國，於會場與多國與會代表進行簡單的交流，除表達我國對廢棄物相關管理及成效外，同時亦希望能給予我國更多的協助，讓我國的成效能更展開，讓更多國家看到我國的成果；各與會代表對於我國在廢棄物管理執行等相關表現皆給予高度讚賞及肯定，表達能有機會與我國進行更多的交流，將我國的經驗帶回創造更多亮點。

另於會場外與荷蘭基礎設施與環境部 環境與國際事務總局- 持續發展局(Ministry of Infrastructure and the Environment DG for the Environment and International Affairs - Directorate for Sustainability) **Mr. Peter Frijns** 會談，對於我國積極努力的執行廢棄物管理等相關事宜表示肯定，希望雙方能有更多國際會議、研討會等交流機會。



圖 3 與國際友人進行會談

參、心得與建議

一、心得

本次會議本署代表參加由 4 月 28 日至 5 月 2 日之巴塞爾公約會議，取得會議相關資料及瞭解目前公約關切議題方向，與會心得與建議分述如后：

(一) 持續關切及參與巴塞爾公約會議

我國雖非公約締約國，但自 2000 年以來便積極參與國際公約及相關會議以增加我國廢棄物管理成果於國際舞台交流機會，希望能藉由與會（1）取得更為完整之國際資訊，以供我國環保主管機關決策參考；（2）提供國際公約最新發展趨勢及公約技術準則內容，以協助國內相關單位或產業掌握國際發展動脈；（3）爭取參與空間及適時展示我國成果，以提升我國曝光率及國際合作之契機。

過去歷年來我國曾多次參與國際廢棄物管理會議：在巴塞爾公約相關會議中，自 2003 年起參與了包括再利用手機夥伴計畫(2003 年)、回收及越境轉移(2005 年)、修復再使用(2007 年)、電腦設備夥伴計畫籌組(2008 年)、臨時工作組-文獻回顧及基本原則確立(2009 年)、修復再使用及再利用(2010 年)、促進廢電腦設備環境無害化、舊電腦設備越境轉移(2012-2013 年)以及參與電腦設備夥伴計畫與公約秘書處主辦會議(2014 年)。今年度持續參與國際巴塞爾公約會議(COP13)，以保有資訊交流機會及開拓國際脈絡，將國際、區域層級之會議內容，尤其是可增進我國主管機關廢棄物管理成效亮點，及國內業者技術提升等資訊予以呈現，以供社會之產官學各界能即時掌握國際廢棄物管理之趨勢，共同為我國之廢棄物管理努力。

而我國廢棄物管理亦依循巴塞爾公約之精神，透過產出、貯存、清除處理、再利用及輸出入之資訊系統管理，能更有效掌握廢棄物流向，以確保環境友善處理。此外亦加強國際互動交流來提升廢棄物有效管理；並積極參與國際事務，拓展國際視野與技術交流，以落實廢棄物友善管理。

有關本次會議擬推動審視巴塞爾公約附件一、三、四、九等文件，因涉及有害特性清單及廢棄物處置方式等內容，將持續予以關注；另電腦設備夥伴計畫因其工作組已完成各項職責，可能於今年解散，其計畫項下所編製之舊廢電腦設備環境友善管理指導文件日後若通過釋出，可作為我國舊廢電子設備管理之參考，未來將持續關注電腦設備夥伴計畫之任何後續活動，以隨時掌握電子廢棄物管理之國際動向。此外，巴塞爾公約擬通過成立家庭廢棄物夥伴關係，其將針對家庭廢棄物之產出、管理及處置等組織工作小組進行討論，未來亦有可能編制相關指導文件供各國作為管理及立法之參考。

(二) 維繫人脈及與會交流

此次於會場與多國與會代表進行簡單的交流，除表達我國對廢棄物相關管理及成效外，同時亦希望能給予我國更多的協助，讓我國的成效能更展開，讓更多國家看到我國的成果；各與會代表對於我國在廢棄物管理執行等相關表現皆給予高度讚賞及肯定，表達希望能有機會與臺灣進行更多的交流，將我國的經驗帶回創造更多亮點。

另於會場外與荷蘭基礎設施與環境部 環境與國際事務總局- 持續發展局(Ministry of Infrastructure and the Environment DG for the Environment and International Affairs - Directorate for Sustainability) **Mr. Peter Frijns** 會談，對於我國積極努力的執行廢棄物管理等相關事宜表示肯定，希望雙方能有更多國際會議、研討會等交流機會。

(三) 夥伴計畫的後續追蹤及創新計畫

其為增加對物品使用及 **end of life** 之環境友善管理包括翻新、修理、材料回收、回收和處置，亦需考慮到社會責任、可持續發展概念和關於生命週期的資訊分享；關於家庭垃圾的環境友善管理創建一個新的合作夥伴關係。

依據 **BC-12/13** 號協定將家庭垃圾的環境友善管理工作計畫納入巴塞爾公約開放式工作組工作事項，以發展中及經濟轉型國家的需求為重點，包括解決方案、商業模式、最新做法等事項制訂指導文件或手冊。

家庭垃圾夥伴關係 2018-2019 兩年期工作計畫主要執行事項為：

1. 制訂指導文件或手冊；
2. 搜集彙整不同區域有關的案例研究；
3. 加強認識及培訓提高參與度；
4. 與致力於家庭垃圾管理的其他組織聯繫及交流。

二、建議事項

1. 持續參與巴塞爾公約，提升我國於國際舞台之影響力。
2. 擴大經營國際人脈關係，以利臺灣參與國際組織。
3. 國際參與人員傳承及專業能力培養。
4. 建議與日本、新加坡、澳洲等友善國家緊密合作，或辦理國際研討會說明我國在電子廢棄物及含汞及其他有害廢棄物境內外處理之積極作法及成效。
5. 將我國關於廢棄物回收、處理、管理等成效製作成中英文對照文宣，可適時宣導。

肆、附件

附件 1 巴塞爾公約第 13 次締約國大會議程

UNITED
NATIONS



Food and Agriculture
Organization of the
United Nations

BC
RC
SC

UNEP/CHW.13/INF/2*
UNEP/FAO/RC/COP.8/INF/2*
UNEP/POPS/COP.8/INF/2*



**Basel Convention on the Control of
Transboundary Movements of Hazardous
Wastes and Their Disposal**

Distr.: General
8 November 2016

English only



**Rotterdam Convention on the Prior
Informed Consent Procedure for Certain
Hazardous Chemicals and Pesticides in
International Trade**



**Stockholm Convention on Persistent
Organic Pollutants**

**Conference of the Parties to the
Basel Convention on the Control
of Transboundary Movements
of Hazardous Wastes and
Their Disposal
Thirteenth meeting**
Geneva, 24 April–5 May 2017
Item 3 (b) of the provisional agenda **
**Organizational matters:
organization of work**

**Conference of the Parties to the
Rotterdam Convention on the
Prior Informed Consent Procedure
for Certain Hazardous Chemicals
and Pesticides in International
Trade
Eighth meeting**
Geneva, 24 April–5 May 2017
Item 3 (b) of the provisional agenda ***
**Organizational matters:
organization of work**

**Conference of the Parties to the
Stockholm Convention on
Persistent Organic Pollutants
Eighth meeting**
Geneva, 24 April–5 May 2017
Item 3 (b) of the provisional agenda ****
**Organizational matters:
organization of work**

**Tentative schedule of work of the meetings of the conferences of
the Parties to the Basel, Rotterdam and Stockholm conventions**

Note by the Secretariat

The annexes to the present note contain a tentative schedule of work of the meetings of the conferences of the Parties to the Basel, Rotterdam and Stockholm conventions (annex I) and a tentative schedule of possible contact and other groups (annex II). The tentative schedule of work, which was agreed to by the bureaux of the conferences of the Parties to the three conventions at their joint meeting on 3–4 November 2016, is provisional and could be subject to changes before or during the two weeks of the meetings.¹ The present note, including its annexes, has not been formally edited.

* Reissued for technical reasons on 16 January 2017.

** UNEP/CHW.13/1.

*** UNEP/FAO/RC/COP.8/1.

**** UNEP/POPS/COP.8/1.

¹ Participants may wish to take into account that each of the sessions of the conferences of the Parties may last longer or begin earlier, subject to the decisions taken by the bureaux, which would be expected to meet each morning from 8 a.m. to 9 a.m. to agree on the order of business for the day, and by the conferences of the Parties. Delegates are therefore advised to allow for a certain level of flexibility when making travel arrangements.

Annex I: Tentative schedule of work of the meetings of the conferences of the Parties from 24 April to 5 May 2017 in Geneva¹

	Mon, 24 April 2017	Tue, 25 April 2017	Wed, 26 April 2017	Thu, 27 April 2017	Fri, 28 April 2017	Sat, 29 April 2017
Morning session 10 a.m.– 1 p.m.	BC Item 1: Opening of the BC meeting BC Item 2: Adoption of the agenda	<i>Reports of contact groups</i>	<i>Reports of contact groups</i>	<i>Reports of contact groups</i>	<i>Reports of contact groups</i>	<i>Reports of contact groups</i>
	RC Item 1: Opening of the RC meeting RC Item 2: Adoption of the agenda SC Item 1: Opening of the SC meeting SC Item 2: Adoption of the agenda	Joint session of the three COPs: BC item 4 (cont.) (c) Legal, compliance and governance matters: (i) Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention RC Item 5 (cont.) (c) Compliance SC Item 5 (cont.) (j) Compliance BC Item 4 (cont.) (b) Scientific and technical matters: (i) Technical guidelines (only POPs wastes) SC Item 5 (cont.) (c) Measures to reduce or eliminate releases from wastes BC Item 6; RC Item 7; SC Item 7: Programme of work and budget BC Item 7; RC Item 8; SC Item 8: Venue and date of the next COPs BC Item 8; RC Item 9; SC Item 9: Other matters (only admission of observers and development of draft MOUs)	Session of SC COP-8: Item 5 (cont.) (a) Measures to reduce or eliminate releases from intentional production and use: (i) Exemptions; (iv) Brominated diphenyl ethers; (v) Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride.	Session of SC COP-8: <i>Consideration of the outcomes of the contact groups and draft decisions</i> Item 5 (cont.) (a) Measures to reduce or eliminate releases from intentional production and use: (ii) DDT (iii) Polychlorinated biphenyls (d) Implementation plans	Session of BC COP-13: Item 4 (cont.) (b) Scientific and technical matters: (i) Technical guidelines (cont.) (excluding POPs wastes) (a) Strategic issues: (i) Strategic framework (ii) Follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention (iii) Cartagena Declaration	Session of BC COP-13: Item 4 (cont.) (c) Legal, compliance and governance matters: (ii) National legislation, notifications, enforcement of the Convention and efforts to combat illegal traffic (g) Operations and work programme of the OEWG for 2018–2019
Afternoon session 3–6 p.m.	Joint session of the three COPs: BC Item 4: Matters related to the implementation of the Convention (e) International cooperation, coordination and partnerships: (ii) International cooperation and coordination (excluding environmentally sound dismantling of ships and cooperation with IMO) RC Item 5: Matters related to the implementation of the Convention (f) International cooperation and coordination SC Item 5: Matters related to the implementation of the Convention (k) International cooperation and coordination BC Item 4 (cont.) (d) Technical assistance: (i) Capacity-building (ii) Basel Convention regional and coordinating centres (iii) Implementation of decision V/32 on the enlargement of the scope of the Trust Fund RC Item 5 (cont.) (d) Technical assistance SC Item 5 (cont.) (f) Technical assistance	Session of SC COP-8: Item 4: Rules of procedure Item 5 (cont.) (e) Listing of chemicals in Annex A, B or C to the Convention; (i) Effectiveness evaluation;	Session of SC COP-8: Item 5 (cont.) (b) Measures to reduce or eliminate releases from unintentional production; (h) Reporting pursuant to Article 15;	Session of SC COP-8: <i>Consideration of the outcomes of the contact groups and draft decisions</i> Item 9 (cont.) (excluding admission of observers and development of a draft MOU)	Session of SC COP-8: <i>Consideration of the outcomes of the contact groups and draft decisions</i> Item 10: Adoption of the report	Session of BC COP-13: Item 4 (cont.) (b) Scientific and technical matters: (ii) Amendments to the annexes to the Basel Convention (iii) Classification and hazard characterization of wastes (iv) National reporting
				Session of RC COP-8:³ Item 5 (cont.) (b) Listing of chemicals in Annex III to the Convention: (i) Consideration of chemicals for inclusion in Annex III (ii) Intersessional work on the process of listing chemicals in	Adoption of the section of the reports on the joint sessions of the meetings of the COPs⁴	

¹ Items listed in the tentative schedule are from the provisional agendas of the meetings (UNEP/CHW.13/1; UNEP/FAO/RC/COP.8/1; UNEP/POPS/COP.8/1).

² The bureaux of the conferences of the Parties have agreed that, when examining credentials, they would accept, in addition to original credentials in good order, copies of credentials on the understanding that original credentials would be submitted as soon as possible. Each Bureau would present its report to the respective Conference of the Parties in the afternoon of Thursday, 4 May 2017.

³ This session might extend beyond 6 p.m. Interpretation in the six official United Nations languages would also be provided during the extended session.

⁴ The conferences of the Parties are scheduled to meet in joint sessions to adopt the section of their report covering the joint sessions held on Monday, 24 April 2017 and on the morning of Tuesday, 25 April 2017.

	Mon, 24 April 2017	Tue, 25 April 2017	Wed, 26 April 2017	Thu, 27 April 2017	Fri, 28 April 2017	Sat, 29 April 2017
	BC Item 4 (cont.) (f) Financial resources RC Item 5 (cont.) (e) Financial resources SC Item 5 (cont.) (g) Financial resources and mechanisms			Annex III		

	Sun, 30 April 2017	Mon, 1 May 2017	Tue, 2 May 2017	Wed, 3 May 2017	Thu, 4 May 2017	Fri, 5 May 2017	
Morning session 10 a.m.– 1 p.m.	No formal meetings	Reports of contact groups	Reports of contact groups	Reports of contact groups	Reports of contact groups	Reports of contact groups	
		Session of BC COP-13: Consideration of the outcomes of the contact groups and draft decisions Item 4: (cont.) (e) International cooperation, coordination and partnerships: (i) Basel Convention Partnership Programme (ii) International cooperation and coordination (cont.) (only environmentally sound dismantling of ships and cooperation with IMO)	Session of RC COP-8: Item 5 (cont.) (b) Listing of chemicals in Annex III to the Convention: (i) Consideration of chemicals for inclusion in Annex III (cont.)	Session of RC COP-8: Consideration of the outcomes of the contact groups and draft decisions Item 4: Rules of procedure for the Conference of the Parties Item 5 (cont.) (a) Status of implementation	Session of RC COP-8: Consideration of the outcomes of the contact groups and draft decisions Item 10: Adoption of the report	High-level segment	
Afternoon session 3–6 p.m.	No formal meetings	Session of BC COP-13: Consideration of the outcomes of the contact groups and draft decisions Item 8 (cont.) (excluding admission of observers and development of a draft MOU)	Session of BC COP-13: Consideration of the outcomes of the contact groups and draft decisions Item 9: Adoption of the report	Session of RC COP-8: Consideration of the outcomes of the contact groups and draft decisions Item 9 (cont.) (excluding admission of observers and development of a draft MOU)	Opening of the high-level segment	Adoption of BC budget decision	
					Ministerial round tables	Joint and convention-specific sessions as necessary Consideration of the outcomes of the joint or convention-specific contact groups, adoption of the reports on credentials and adoption of outstanding decisions	Adoption of RC budget decision
							Adoption of SC budget decision
							BC Item 10; RC Item 11; SC Item 11: Closure of the meeting

Stockholm Convention Conference of the Parties (SC COP)	
Basel Convention Conference of the Parties (BC COP)	
Rotterdam Convention Conference of the Parties (RC COP)	
Joint sessions of the meetings of the conferences of the Parties	
High-level segment	
Joint and convention-specific sessions as necessary	

Annex II: Tentative schedule of possible contact and other groups at the meetings of the conferences of the Parties from 24 April to 5 May 2017 in Geneva

The following contact and other groups have been tentatively identified and may be established during the two-week period of the meetings as needed. The total number of groups meeting at any one time would need to be limited to ensure that there is adequate opportunity for the interests of all delegations to be factored into the discussions. Within the timeframes indicated below, the groups would meet during a set amount of time. The schedule below lists possible start dates of the groups. The indicated dates for adoption of decisions are based on the view expressed by the bureaux that decisions should be adopted as much as possible by the end of convention-specific sessions they relate to. The groups are thus expected to complete their work by the day before the last convention-specific session.

Contact and other groups	Mon, 24 April 2017	Tue, 25 April 2017	Wed, 26 April 2017	Thu, 27 April 2017	Fri, 28 April 2017	Sat, 29 April 2017	Mon, 1 May 2017	Tue, 2 May 2017	Wed, 3 May 2017	Thu, 4 May 2017	Fri, 5 May 2017
Joint sessions of the meetings of the conferences of the Parties to the Basel, Rotterdam and Stockholm conventions											
Programme of work and budget		Possible start								Group to finish work	Adoption of decisions
Review of the synergies arrangements and other joint issues as necessary		Possible start							Group to finish work	Adoption of decisions	
Technical assistance/financial resources and mechanisms		Possible start			Adoption of SC decisions			Adoption of BC decisions	Group to finish work	Adoption of RC decisions	
Sessions of the meeting of the Conference of the Parties to the Stockholm Convention											
Listing of chemicals		Possible start		Group to finish work	Adoption of decisions						
Compliance		Possible start		Group to finish work	Adoption of decision						
Effectiveness evaluation		Possible start		Group to finish work	Adoption of decision						
Sessions of the meeting of the Conference of the Parties to the Basel Convention											
Technical matters		Possible start (on POPs guidelines)			Any added mandates		Group to finish work	Adoption of decisions			
Strategic matters					Possible start		Group to finish work	Adoption of decision			
Compliance and legal matters					Possible start		Group to finish work	Adoption of decisions			
Sessions of the meeting of the Conference of the Parties to the Rotterdam Convention											
Listing of chemicals in Annex III ¹				Possible start					Group to finish work	Adoption of decisions	

¹ It is to be determined whether discussions of those issues will be addressed by a single contact group or two separate contact groups, one for the consideration of chemicals for inclusion in Annex III to the Convention and the other for the intersessional work on the process of listing chemicals in Annex III to the Convention.

附件 2 周邊會議議程概要

**Tentative schedule of side events at the meetings of the conferences of the Parties to the
Basel, Rotterdam and Stockholm conventions, 24 April - 5 May 2017, Geneva, Switzerland**

	Mon, 24 April 2017	Tue, 25 April 2017	Wed, 26 April 2017	Thu, 27 April 2017	Fri, 28 April 2017	Sat, 29 April 2017
Lunch time events 1:15-2:45 p.m.	Looking Back, Looking Forward - Programing for Impact GEF <i>Room 3</i>	From science to action Nigeria, STAP/GEF and BRS Secretariat <i>Room 3</i>	Measuring the effectiveness of the Stockholm Convention: assessment, insight and outlook Effectiveness evaluation committee <i>Room 3</i>	Opening of the Technology Fair <i>Exhibition area</i> Regional demonstration of chemicals and waste related conventions' synergies BCRC-China, China and Switzerland <i>Room 3</i>	Launch of the ISO guidance principles for the sustainable management of secondary metals World Resources Forum <i>Room 3</i>	PACE outcomes Members of PACE <i>Exhibition area</i>
	Toxic toy or toxic waste?: Recycling POPs into new products IPEN <i>Room 4</i>	Evolution of the science associated with understanding and identifying PBTs & POPs Society of Environmental Toxicology and Chemistry <i>Room 4</i>	Swedish experiences on the remediation of PCBs in buildings and removal of PCBs in joints and floor sealings Sweden <i>Room 4</i>	Hazardous pesticides and alternatives to them: Challenges for Small Islands Developing States PAN, ISACI and NTN <i>Room 4</i>	Household wastes – new partnership under the Basel Convention Members of the informal group on household wastes <i>Room 4</i>	Mercury waste management – How can we apply environmentally sound technologies for current mercury waste management practices? IETC <i>Room 3</i>
Evening events 6:15-7:45 p.m.	Reception hosted by Switzerland <i>Cafeteria</i>	Shaping the future for sound management of chemicals and wastes beyond 2020 SAICM secretariat and Germany <i>Room 15</i>	Sustainable chemistry: A key driver for safe alternatives? UNEP, Ghana, Germany, BRS Secretariat <i>Room 15</i>	New tools and approaches in monitoring POPs and emerging pollutants SCRC-Czech Republic <i>Room 15</i>	Remanufacturing as part of a circular economy CLEPA <i>Room 15</i>	Closure of the Technology Fair Reception hosted by Switzerland <i>Bâtiment des Forces Motrices</i>
		Local to global actions for chemicals and waste management GEF Small Grants Programme, UNDP <i>Room 7+8</i>	Toxic profits: The international trade of banned pesticides IITC and ACAT <i>Room 13</i>	Setting up extended producer responsibility (EPR) legislation in non-OECD countries for electric and electronic waste: challenges and opportunities GIZ <i>Room 16</i>	Launch of the ESM toolkit Expert working group on ESM <i>Room 3</i>	
					Film screening: "Trashed" IPEN <i>Room 13</i>	

	Sun, 30 April 2017	Mon, 1 May 2017	Tue, 2 May 2017	Wed, 3 May 2017	Thu, 4 May 2017	Fri, 5 May 2017
Lunch time events 1:15-2:45 p.m.	X	Roadmap for activities under the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE) Members of ENFORCE and the Green Customs Initiative <i>Room 3</i>	How could the Basel Convention support implementation of regional conventions on transboundary movement of hazardous waste? UNEP, Secretariats of the Bamako and Waigani conventions, BCRC-AI/Senegal, BCCC-Nigeria, BRS Secretariat <i>Room 3</i>	Lessons and best practices integrating gender into implementation: Case studies from Nigeria and Indonesia and new data from the Environment and Gender Information platform WECF and BaliFokus Foundation Indonesia <i>Room 3</i>	Opportunities for collecting and sharing information on Severely Hazardous Pesticides Formulations PAN-UK, co-organized with RC Secretariat <i>Room 3</i>	Human rights, children's rights, and hazardous substances & wastes UNEP, FAO, OHCHR and BRS Secretariat <i>Room 3</i>
		Improving national reporting under the Basel Convention: challenges, benefits and success stories Members of ICC <i>Room 4</i>	Making connections: InforMEA UNEP, co-organized with BRS Secretariat <i>Room 4</i>	Addressing highly hazardous pesticides in SADC: country cases and regional collaboration FAO, co-organized with RC Secretariat <i>Room 4</i>	Bracing resounding success: 'Internet plus' sustains Convention implementation China <i>Room 4</i>	
		Synergetic approach to BRS and Minamata Conventions UNITAR, Switzerland, BRS and Minamata Secretariats <i>Exhibition area</i>				
Evening events 6:15-7:45 p.m.	X	Development of tools to counter illegal management and trade of waste UNU <i>Room 15</i>	Achieving sustainable trade in hazardous substances & wastes: Cooperation between the WTO and BRS Conventions regimes WTO, UNEP, FAO and BRS Secretariat <i>Room 15</i>	Contribution of the BRS conventions to the follow-up and review of the 2030 Agenda for Sustainable Development: Building Parties' capacity to monitor chemicals and wastes UNEP, co-organized by BRS Secretariat <i>Exhibition area</i>	Asbestos related diseases in Asia and necessity of improving the effectiveness of the Rotterdam Convention: Promoting democracy and equity Rotterdam Convention Alliance (ROCA) <i>Room 15</i>	X
		The e-trash transparency project: Tracking global flows of e-waste using GPS technology Basel Action Network <i>Room 16</i>	Paraquat Public Eye and PAN International <i>Room 16</i>	UNDP's experiences on mainstreaming gender into the	Chrysotile asbestos - labour unions role in sound	

Ending double standards: Using the Bamako and Basel Conventions to stop the export to Africa of toxic substances and waste

CIEL
Room 17

Film screening: “Death by design”

Basel Action Network
Room 13

sound management of chemicals

UNDP
Room 15

management of chemicals – a differentiated approach

International Alliance of Trade Union Organizations
“Chrysotile”
Room 16

附件 3 卡塔基納宣言

Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes

Tenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Cartagena, Colombia, 17-21 October 2011

We, the Parties to the Basel Convention,

Having met in Cartagena de Indias, Colombia, from 17 October to 21 October 2011, on the occasion of the tenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

Reaffirming the fundamental aims of the Basel Convention, namely, the reduction of transboundary movements of hazardous and other wastes, the prevention and minimization of their generation and the need to promote the transfer of technology for the sound management of such wastes;

Recalling the third preambular paragraph to the Basel Convention, which affirms that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential;

Recalling Article 4(2)(a) of the Convention that requires each Party to take the appropriate measures to ensure that the generation of hazardous and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

Recalling further Decision III/1 on the Ban Amendment, Decision VII/2 on Hazardous Waste Minimization, and Decision VIII/23 on implementing Decision VII/2;

Recognizing that despite efforts taken and the progress achieved in the first 20 years of the Basel Convention, the volume of hazardous and other wastes continues to increase on a global level, and that the transboundary movement of hazardous and other wastes has not diminished;

Taking into consideration that the challenge we face regarding hazardous wastes and other wastes is a threat to human health and the environment, and is best addressed through the avoidance of the use of hazardous substances in products and processes as well as through production methods that prevent and minimize waste generation;

Noting that Decision III/1 to amend the Basel Convention provides incentives to minimize waste generation at source as one way of meeting that challenge;

Noting further that prevention and minimization of hazardous waste and other wastes at source are a critical stage of the waste management hierarchy;

Aware that the environmentally sound management of hazardous and other wastes has the potential to internalize costs, conserve valuable resources and reduce pollution;

Reaffirming the importance that national governments mainstream waste prevention, minimization and environmentally sound recovery into development strategies;

Recognising that countries generating the most hazardous and other wastes, have a special responsibility to take the lead in promoting and implementing waste prevention and avoidance policies and methods at source;

Further recognising that adequate and sustainable funding, capacity building, expertise and technology transfer is required, in order for developing countries to be able to achieve this critical stage of the environmentally sound management of waste;

Welcoming the work undertaken in the Consultative Process on Financing Options for Chemicals and Waste and looking forward to the Executive Director of UNEP's report to be present to the UNEP Governing Council Special Session in February 2012 following the consultations.

Declare that:

1. We commit to enhancing the active promotion and implementation of more efficient strategies to achieve prevention and minimization of the generation of hazardous waste and other wastes and their disposal;

2. We emphasize measures should be undertaken to achieve prevention and minimization of hazardous wastes and other wastes generated at source, to enable the decoupling of economic growth and the environmental impacts associated with waste generation;

3. We reaffirm that the Basel Convention is the primary global legal instrument for guiding the environmentally sound management of hazardous and other wastes and their disposal, including efforts to prevent and minimize their generation, and efficiently and safely manage that cannot be avoided;

4. We encourage efforts undertaken at national level to measure and record progress in waste reduction, and to report such progress to the Basel Convention Secretariat;

5. We also encourage Parties, signatories and others to develop synergistic national and regional pilot projects for waste prevention for specific waste streams of concern, where appropriate in collaboration with inter alia the UNEP and UNIDO Cleaner Production programs, GEF, and the Basel Convention Regional Centers, and partnerships, including public-private partnerships;

6. We reaffirm that the safe and environmentally sound recovery of hazardous and other wastes that cannot as yet be avoided, represents an opportunity for the generation of employment, economic growth and the reduction of poverty insofar as it is done in accordance with the Basel Convention requirements, guidelines and decisions and will not create a disincentive for their prevention and minimization;

7. We encourage more systematic and comprehensive global and regional efforts to improve access to cleaner production methods as well as to information on less hazardous substitutes for hazardous chemicals and materials, in partnership with relevant initiatives;

8. We recognize the need to make the most of the Basel Convention regional and coordinating centers, which also need to be strengthened to disseminate information and practices on waste prevention and minimization as well as assist in developing pilot projects for environmentally sound management of specific waste streams of concern;

9. We also recognize that the ongoing synergy process in the Chemical and Waste Regime has delivered concrete and positive results, and that it can strongly contribute to improving waste prevention, minimization and recovery;

10. We acknowledge the significant contribution of the Basel public private partnerships especially the MPPI and PACE to improve waste prevention, minimization and recovery;

11. We welcome enhanced engagement with other bodies, NGOs and the private sector to advance work on prevention, minimization, and recovery of hazardous and other wastes, and to develop and implement projects, waste prevention programmes and partnerships to that end;

12. We encourage Parties, signatories and others in a position to do so, to assist in capacity building and technology transfer for waste prevention and minimization in regions needing such assistance;

13. We acknowledge that prevention, minimization and recovery of wastes advance the three pillars of sustainable development, and that fulfilment of the Basel Convention's objectives is an important contribution to the United Nations Conference on Sustainable Development in Rio de Janeiro in 2012.

附件 4 執行卡塔基納宣言關於環境友善管理之意見修訂指導草案



Distr.: General
24 October 2016

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (a) (iii) of the provisional agenda*

**Matters related to the implementation of the Convention:
strategic issues: Cartagena Declaration on the Prevention,
Minimization and Recovery of Hazardous Wastes and
Other Wastes**

Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes

Note by the Secretariat

I. Introduction

1. By paragraph 1 of its decision BC-12/2, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal adopted the road map for action on the implementation of the Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes set out in the annex to that decision. By paragraph 2 of the same decision the Conference of the Parties invited Parties and other stakeholders to undertake activities to implement the road map and to provide information on such activities to the Secretariat.

1. In the same decision, the Conference of the Parties mandated the expert working group on environmentally sound management¹ to develop guidance to assist Parties in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and invited Parties to consider serving as lead country in the work on the development of the guidance.

2. To that end, in paragraph 7 of decision BC-12/1, the Conference of the Parties requested each regional group to nominate through its Bureau representative, by 31 July 2015, one expert with specific knowledge and expertise in the field of waste prevention and minimization of the generation of hazardous and other wastes, bringing the total membership of the expert working group on environmentally sound management to 30 members.

* UNEP/CHW.13/1.

¹ Further information on the activities of the expert working group on environmentally sound management is set out in document UNEP/CHW.13/4.

3. In paragraph 4 of decision BC-12/2, the Conference of the Parties requested the Secretariat to submit a report on progress made in the implementation of the road map to the Open-ended Working Group for consideration at its tenth meeting and subsequently to the Conference of the Parties for consideration and possible adoption at its thirteenth meeting.

II. Implementation

A. Guidance to assist Parties in developing efficient strategies for achieving prevention and minimization of the generation of hazardous and other wastes

4. In accordance with the request in paragraph 7 of decision BC-12/1, the Secretariat received nominations from three regional groups to the expert working group on environmentally sound management for experts with specific knowledge and expertise in the field of waste prevention and minimization of the generation of hazardous and other wastes. As at 21 September 2016, nominations were yet to be received from the Central and Eastern European States and the Western European and other States.

5. The expert working group met in San Francisco, United States of America, from 10 to 12 November 2015. At the meeting, the group initiated its work on the development of guidance to assist Parties, as appropriate, in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and their disposal. The group took into account the work it had already undertaken to develop a draft practical manual on prevention (UNEP/CHW.13/4/Add.1). The group developed a draft outline for the guidance, which was further worked on intersessionally and submitted to the Open-ended Working Group at its tenth meeting for its consideration (see UNEP/CHW/OEWG.10/INF/5).

6. At its tenth meeting, the Open-ended Working Group further refined the draft outline developed by the expert working group. In addition, in its decision OEWG-10/3 the Working Group, among other things, welcomed the work undertaken by the expert working group to develop the draft outline, requested the expert working group to continue its work to develop the draft guidance on the basis of the outline as revised by the Working Group and to make it available by 31 October 2016 for comment by Parties and others and invited Parties and others to submit comments to the Secretariat no later than 15 December 2016.

7. Subsequently, the fifth meeting of the expert working group was held in Bratislava from 13 to 15 July 2016. At that meeting, the group further developed the draft guidance on the basis of the outline as revised by the Open-ended Working Group and agreed to work intersessionally to finalize a draft of the guidance for circulation to Parties and others by 31 October 2016.

8. The sixth meeting of the expert working group will be held in Mechelen, Belgium, from 17 to 19 January 2017. At that meeting, the group will further develop the draft guidance taking into account the comments received from Parties and others. The draft guidance will then be made available for the consideration of the Conference of the Parties in document UNEP/CHW.13/INF/11.

B. Progress made in implementation of the road map

9. By the time of the tenth meeting of the Open-ended Working Group, one Party had submitted information on activities undertaken to implement the road map to the Secretariat in response to the invitation in paragraph 2 of decision BC-12/2. At its tenth meeting, the Working Group reviewed the progress that Parties and others had made in the implementation of the road map for action on the implementation of the Cartagena Declaration. In its decision OEWG-10/3, the Working Group, among other things, encouraged Parties and other stakeholders to continue to undertake activities to implement the road map and to provide information on such activities to the Secretariat. As at 21 September 2016, the Secretariat had not received any further such information. As a result, the Secretariat was not in a position to prepare a report on progress made in implementation of the road map for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting. The information received and any other information that may be received subsequent to the date of preparation of the present note will be made available on the website of the Basel Convention.²

² <http://www.basel.int>.

10. In decision OEWG-10/3, the Working Group also invited the Conference of the Parties at its thirteenth meeting to consider the outcome of the second session of the United Nations Environment Assembly, in particular the resolutions on the sound management of chemicals and waste, sustainable consumption and production, marine plastic litter and microplastics and delivering on the 2030 Agenda for Sustainable Development, insofar as they were relevant to waste prevention and the minimization and recovery of hazardous wastes and other wastes. An overview of the resolutions of the second session of the Environment Assembly as they relate to the Convention (as well as to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants), is provided in the note by the Secretariat on international cooperation and coordination (UNEP/CHW.13/19-UNEP/FAO/RC/COP.8/20-UNEP/POPS/COP.8/24) and associated documents cited therein.

III. Proposed action

11. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties,

Having considered the outcome of the second session of the United Nations Environment Assembly, in particular the resolutions on the sound management of chemicals and waste, sustainable consumption and production, marine plastic litter and microplastics and delivering on the 2030 Agenda for Sustainable Development,³ insofar as they are relevant to waste prevention, minimization and recovery of hazardous wastes and other wastes,

1. *Invites* the Executive Director of the United Nations Environment Programme to take into account the work of the Basel Convention on environmentally sound management and the prevention of waste generation in ensuring the full integration of the environmentally sound management of waste in the programme-wide strategies and policies of the United Nations Environment Programme;⁴

2. *Encourages* Parties and other stakeholders to continue to undertake activities to implement the road map for action on the implementation of the Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes and to provide information on such activities to the Secretariat;

3. *Welcomes* the work undertaken by the expert working group on environmentally sound management to develop draft guidance to assist Parties in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and their disposal;

4. *Takes note* of the draft guidance to assist Parties in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and their disposal;⁵

5. *Requests* the expert working group on environmentally sound management to continue its work to develop the draft guidance referred to in paragraph 4 above taking into account the deliberations of the Conference of the Parties at its thirteenth meeting and to make a revised version of the draft guidance available on the website of the Basel Convention by 30 September 2017 for comment by Parties and others;

6. *Invites* Parties and others to submit comments on the revised draft guidance referred to in paragraph 5 above, including any experience in using the draft guidance, to the Secretariat by 30 November 2017;

7. *Requests* the expert working group on environmentally sound management:

3 See UNEP/EA.2/19, annex. Also available from: <http://web.unep.org/unea/list-resolutions-adopted-unea-2>.

4 United Nations Environment Assembly resolution 2/7 on sound management of chemicals and waste, para. 11.

5 UNEP/CHW.13/INF/11.

(a) To further revise the draft guidance referred to in paragraph 5 above, taking into account the comments received pursuant to paragraph 6 above;

(b) To submit the further revised draft guidance to the Open-ended Working Group for consideration at its eleventh meeting and subsequently to the Conference of the Parties at its fourteenth meeting for consideration and possible adoption.

附件 5 持久性有機污染物環境友善管理技術準則



Distr.: General
28 October 2016

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (b) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
scientific and technical matters: technical guidelines**

Technical guidelines

Note by the Secretariat

I. Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants

A. Introduction

12. In paragraphs 2–5 of decision BC-12/3, on technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal adopted a set of seven technical guidelines,¹ requested the Secretariat to disseminate the guidelines to Parties and others in the six official languages of the United Nations and invited Parties and others to use them and to submit comments on their experience in so doing. The Secretariat was requested to prepare a compilation of comments received for consideration by the Conference of the Parties at its thirteenth meeting.

13. In paragraph 6 of the same decision, the Conference of the Parties decided to extend the mandate of the small intersessional working group established by paragraph 9 of decision OEWG-I/4 to provide that the group would monitor and assist in the review, updating and preparation, as appropriate, of technical guidelines relevant to persistent organic pollutant wastes, working in particular by electronic means.

14. In paragraph 11 of the decision, the Conference of the Parties decided that the updating of the general technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants and the preparation or updating of specific technical guidelines with regard to the chemicals listed in Annexes A and C to the Stockholm Convention on Persistent Organic Pollutants by decisions SC-7/12–SC-7/14 of the Conference of the

* UNEP/CHW.13/1.

¹ UNEP/CHW.12/5/Add.2/Rev.1; UNEP/CHW.12/5/Add.3/Rev.1; UNEP/CHW.12/5/Add.4/Rev.1; UNEP/CHW.12/5/Add.5/Rev.1; UNEP/CHW.12/5/Add.6/Rev.1; UNEP/CHW.12/5/Add.7/Rev.1; UNEP/CHW.12/5/Add.9.

Parties to the Stockholm Convention should be included in the work programme of the Open-ended Working Group for the biennium 2016–2017, including with regard to the following:

(a) Establishment of levels of destruction and irreversible transformation for the chemicals necessary to ensure that when disposed of they do not exhibit the characteristics of persistent organic pollutants specified in paragraph 1 of Annex D to the Stockholm Convention;

(b) Determination of which disposal methods constitute environmentally sound disposal as referred to in paragraph 1 (d) (ii) of Article 6 of the Stockholm Convention;

(c) Establishment, as appropriate, of the concentration levels of the chemicals needed to define for them low persistent organic pollutant content as referred to in paragraph 1 (d) (ii) of Article 6 of the Stockholm Convention.

15. In paragraph 12 of the decision the Conference of the Parties invited Parties and organizations to indicate to the Secretariat by 15 August 2015 their willingness to take the lead in updating or preparing technical guidelines in accordance with paragraph 11 of the decision. Furthermore, in paragraph 13 of the decision the Conference of the Parties invited the lead countries or organizations, if selected, and requested the Secretariat, if no lead country or organization was selected and subject to the availability of funding, in consultation with the small intersessional working group, to prepare draft revised technical guidelines as outlined in paragraph 12 of the decision for consideration by the Open-ended Working Group at its tenth meeting.

16. With regard to the low persistent organic pollutant content values included in the technical guidelines, in paragraphs 8–10 of the decision the Conference of the Parties decided to undertake work towards a review of all provisional low persistent organic pollutant content values before its thirteenth meeting, invited Parties and others to submit to the Secretariat, three months in advance of the tenth meeting of the Open-ended Working Group, comments and related information on low persistent organic pollutant content values and requested the Secretariat to compile the comments for consideration by the Open-ended Working Group at its tenth meeting.

17. In paragraphs 15–17 of decision BC-12/3 the Conference of the Parties invited Parties and others to submit waste-related information on decabromodiphenyl ether to the Secretariat and Norway by 30 August 2016, welcomed the intention of Norway to analyse the information received and to share its analysis with the small intersessional working group and requested the Secretariat to submit the information received and the analysis conducted by Norway to the Conference of the Parties for consideration at its thirteenth meeting.

B. Implementation

1. Technical guidelines adopted at the twelfth meeting of the Conference of the Parties

18. The final versions of the seven technical guidelines adopted at the twelfth meeting of the Conference of the Parties were made available on the Basel Convention website² in the six official languages of the United Nations in July 2016, thanks to the generous financial support provided by the Government of Japan.

19. As at 10 October 2016, the Secretariat had not received any comments from Parties or others on their experience in using the technical guidelines.

2. Updating of the general technical guidelines and preparation or updating of specific technical guidelines

20. The small intersessional working group on the development of technical guidelines on persistent organic pollutants wastes met twice, by teleconference, on 3 November 2015 and on 16 September 2016, and discussed the updating of the general technical guidelines and the preparation or updating of specific technical guidelines on persistent organic pollutants. The small intersessional working group includes experts from the Stockholm Convention, in particular members of the Persistent Organic Pollutants Review Committee.

21. In response to the invitation in paragraphs 12 and 13 of decision BC-12/3, Japan has taken the lead in updating the technical guidelines on the environmentally sound management of wastes consisting

² <http://basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>.

of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, or polybrominated biphenyls, including hexabromobiphenyl, to include polychlorinated naphthalenes.

22. At the tenth meeting of the Open-ended Working Group, Canada offered to take the lead in updating the general technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants.

23. In the absence of a lead country or organization, the Secretariat, in consultation with the small intersessional working group, prepared new or revised draft technical guidelines, with generous financial support provided by the Government of Japan, as follows:

(a) New technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene;

(b) New technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters;

(c) Revised technical guidelines on the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls or pentachlorobenzene, to include polychlorinated naphthalenes;

(d) Revised technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dieldrin, endrin, heptachlor, hexachlorobenzene, lindane, mirex, pentachlorobenzene, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical, to include hexachlorobutadiene and pentachlorophenol and its salts.

24. At its tenth meeting, the Open-ended Working Group reviewed the draft technical guidelines referred to in paragraphs 10 and 12 (a)–(c) above. In paragraph 4 of decision OEWG-10/4, the Working Group invited Parties and others to submit to the Secretariat, by 15 September 2016, comments on those drafts, as referred to in the workplan set out in section A of the annex to the decision. The comments received from Parties and others are available on the website of the Basel Convention.³

25. Furthermore, in paragraphs 5 and 6 of the same decision, the Open-ended Working Group invited Parties and others to submit to the Secretariat comments on the revised drafts of the technical guidelines referred to in paragraphs 11 and 12 (d) above, as referred to in the workplan set out in section B of the annex to that decision. The comments received from Parties and others are available on the website of the Basel Convention⁴ and are compiled in document UNEP/CHW.13/INF/12.

26. The Conference of the Parties has before it the following draft technical guidelines for its consideration:

(a) Draft updated general technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants (UNEP/CHW.13/6/Add.1);

(b) Draft new technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene (UNEP/CHW.13/6/Add.2);

(c) Draft new technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters (UNEP/CHW.13/6/Add.3);

(d) Draft updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls including hexabromobiphenyl (see UNEP/CHW.13/6/Add.4);

(e) Draft updated technical guidelines on the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins,

³ <http://www.basel.int/Implementation/POPsWastes/TechnicalGuidelines/tabid/5052/Default.aspx>.

⁴ Ibid.

polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls, pentachlorobenzene or polychlorinated naphthalenes (see UNEP/CHW.13/6/Add.5);

(f) Draft updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dieldrin, endrin, heptachlor, hexachlorobenzene, hexachlorobutadiene, lindane, mirex, pentachlorobenzene, pentachlorophenol and its salts, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical (UNEP/CHW.13/6/Add.6).

3. Low persistent organic pollutant content values

27. Further to the invitation to Parties and others in paragraph 9 of decision BC-12/3 to submit to the Secretariat, three months in advance of the tenth meeting of the Open-ended Working Group, comments and related information on low persistent organic pollutant content values, the Open-ended Working Group, in paragraph 7 of decision OEWG-10/4, invited Parties and others to submit to the Secretariat, by 15 December 2016, taking into account relevant information from the work undertaken in the framework of the Stockholm Convention, further comments on the low persistent organic pollutant content values included in the existing and draft technical guidelines and on related information, including on countries' implementation and related challenges, countries' analytical capabilities for measuring persistent organic pollutant content, and studies, as referred to in the workplan in section C of the annex to the decision.

28. The comments and information received from Parties and others are available on the website of the Basel Convention⁵ and compiled in document UNEP/CHW.13/INF/13.

4. Waste-related information on decabromodiphenyl ether

29. Pursuant to paragraphs 15–17 of decision BC-12/3, Norway, in consultation with the small intersessional working group, has prepared an analysis of waste-related information on decabromodiphenyl ether (UNEP/CHW.13/INF/14).

C. Proposed action

30. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. Welcomes with appreciation the contributions made by the lead countries, Canada and Japan, and the small intersessional working group to the tasks pertaining to technical guidelines on the environmentally sound management of persistent organic pollutants and by the Government of Norway to the analysis on waste-related information on decabromodiphenyl ether;

2. Adopts the following technical guidelines:

(a) Updated general technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants;⁶

(b) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene;⁷

(c) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with pentachlorophenol and its salts and esters;⁸

(d) Updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with polychlorinated biphenyls, polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls, including hexabromobiphenyl;⁹

(e) Updated technical guidelines on the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated

⁵ <http://www.basel.int/Implementation/POPsWastes/TechnicalGuidelines/tabid/5052/Default.aspx>.

⁶ UNEP/CHW.13/6/Add.1/Rev.1.

⁷ UNEP/CHW.13/6/Add.2/Rev.1.

⁸ UNEP/CHW.13/6/Add.3/Rev.1.

⁹ UNEP/CHW.13/6/Add.4/Rev.1.

dibenzo-*p*-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls, pentachlorobenzene or polychlorinated naphthalenes;¹⁰

(f) Updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dieldrin, endrin, heptachlor, hexachlorobenzene, hexachlorobutadiene, lindane, mirex, pentachlorobenzene, pentachlorophenol and its salts, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene or with hexachlorobenzene as an industrial chemical;¹¹

3. *Requests* the Secretariat to disseminate the technical guidelines referred to in paragraph 2 above to Parties and others in the six official languages of the United Nations;

4. *Invites* Parties and others to use the technical guidelines referred to in paragraph 2 above and to submit, not later than two months before the fourteenth meeting of the Conference of the Parties, through the Secretariat, comments on their experience in so doing, and requests the Secretariat to make such comments available to the Conference of the Parties at its fourteenth meeting;

5. *Decides* to extend the mandate of the small intersessional working group established by paragraph 9 of decision OEWG-I/4 to provide that the group shall monitor and assist in the review, updating and preparation, as appropriate, of technical guidelines regarding persistent organic pollutants, working in particular by electronic means;

6. *Recognizes* that in some cases provisional low persistent organic pollutant content values have been established at previous meetings of the Conference of the Parties and that, in other cases, knowledge limitations have posed challenges to the setting of such values and that therefore a review of provisional low persistent organic pollutant content values would be timely;

7. *Decides* to continue working towards a review of provisional low persistent organic pollutant content values in the technical guidelines referred to in paragraph 2 (a) above, and others, as appropriate, before the fourteenth meeting of the Conference of the Parties;

8. *Invites* Parties and others to submit to the Secretariat, three months in advance of the eleventh meeting of the Open-ended Working Group, comments on the low persistent organic pollutant content values included in the technical guidelines referred to in paragraph 2 (a) above, and others, as appropriate, and related information, including on studies, taking into account relevant information available from the Stockholm Convention;

9. *Requests* the Secretariat to prepare a compilation of the comments and information referred to in paragraph 8 above for consideration by the Open-ended Working Group at its eleventh meeting;

10. *Decides* that the updating of the general technical guidelines referred to in paragraph 2 (a) above and the preparation or updating of specific technical guidelines with regard to the chemicals listed in Annexes [A, B and/or C] to the Stockholm Convention by decisions [SC-8/...] of the Conference of the Parties to the Stockholm Convention should be included in the work programme of the Open-ended Working Group for 2018–2019, including with regard to the following:

(a) Establishment of levels of destruction and irreversible transformation for the chemicals necessary to ensure that when disposed of they do not exhibit the characteristics of persistent organic pollutants specified in paragraph 1 of Annex D to the Stockholm Convention;

(b) Determination of which disposal methods constitute environmentally sound disposal as referred to in paragraph 1 (d) (ii) of Article 6 of the Stockholm Convention;

¹⁰ UNEP/CHW.13/6/Add.5/Rev.1.

¹¹ UNEP/CHW.13/6/Add.6/Rev.1.

(c) Establishment, as appropriate, of the concentration levels of the chemicals in order to define for them low persistent organic pollutant content as referred to in paragraph 1 (d) (ii) of Article 6 of the Stockholm Convention;

11. *Invites* Parties to indicate to the Secretariat by 31 August 2017 their willingness to take the lead in updating the general technical guidelines referred to in paragraph 2 (a) above and to develop or update specific technical guidelines with regard to the chemicals listed in Annexes [A, B and/or C] to the Stockholm Convention on Persistent Organic Pollutants by decisions [SC-8/...] of the Conference of the Parties to the Stockholm Convention;

12. *Requests* the Secretariat to continue to provide, subject to the availability of resources, training to developing countries and other countries that are in need of assistance to use the adopted technical guidelines, organizing such activities in cooperation with the Basel Convention regional and coordinating centres or by other appropriate means;

13. *Also requests* the Secretariat to report on the implementation of the present decision to the Open-ended Working Group at its eleventh meeting and to the Conference of the Parties at its fourteenth meeting.

II. Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention

A. Introduction

20. By its decision BC-12/5, on technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, the Conference of the Parties adopted, on an interim basis, the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention,¹² on the understanding that the technical guidelines were of a non-legally binding nature and that the national legislation of a Party would prevail over the guidance provided in the technical guidelines, in particular in paragraphs 31, 42 and 43 thereof. In the same decision, the Conference of the Parties requested the Secretariat to disseminate the technical guidelines to Parties and others in the six official languages of the United Nations.

21. In paragraphs 3 and 4 of the same decision, the Conference of the Parties invited Parties and others to use the technical guidelines and to submit, not later than two months before the thirteenth meeting of the Conference of the Parties, through the Secretariat, comments on their experience in so doing, and requested the Secretariat to prepare a compilation of the comments for consideration by the Conference of the Parties at its thirteenth meeting.

22. In paragraph 5 of the decision, the Conference of the Parties acknowledged the need to look further into the guidance on the distinction between waste and non-waste and agreed to include the further elaboration of work on that issue in the work programme of the Open-ended Working Group for the biennium 2016–2017 to enable the preparation of draft revised guidelines for consideration by the Conference of the Parties at its thirteenth meeting.

23. In paragraph 8 of the decision, the Conference of the Parties encouraged Parties to inform the secretariat about any conditions that they applied in relation to used equipment that should normally be considered waste or non-waste and requested the Secretariat to publish any information provided by Parties in that regard on the Basel Convention website.

¹² UNEP/CHW.12/5/Add.1/Rev.1.

B. Implementation

24. The final versions of the interim technical guidelines were made available on the Basel Convention website¹³ in the six official languages of the United Nations in April 2016, thanks to generous financial support provided by the Government of Japan.

25. In a letter dated 3 August 2015,¹⁴ the Secretariat invited Parties and others to submit, among others things, comments and information relevant to the issues and conditions listed in paragraphs 5 and 8 of decision BC-12/5. The comments pertaining to paragraph 5 of decision BC-12/5 are compiled in document UNEP/CHW.13/INF/15. The information received from Parties and others pursuant to paragraph 8 of decision BC-12/5 is available on the website of the Basel Convention.¹⁵

26. In paragraph 3 of decision OEWG-10/5, the Open-ended Working Group requested the Secretariat to send out a questionnaire, to be developed in consultation with the small intersessional working group established by the Conference of the Parties in paragraph 5 of decision BC-10/5, to Parties and others by 29 July 2016, in order to gather information on their experiences in the implementation of the technical guidelines. The questionnaire was sent to Parties on 27 July 2016 with a request that they respond by 15 January 2017. The responses to the questionnaire are compiled in document UNEP/CHW.13/INF/16.

27. In paragraph 8 of the same decision, the Open-ended Working Group mandated the small intersessional working group, working by electronic means and, subject to the availability of funding, through a face-to-face meeting, to further explore options for addressing outstanding issues, in particular those listed in appendix V of the technical guidelines. At a teleconference on 15 September 2016, the small intersessional working group reviewed the status of the work and decided that a face-to-face meeting was not required at that time.

28. In paragraph 9 of the decision, the Open-ended Working Group requested the Secretariat to provide legal advice on the issues referred to in subparagraphs 8 (c) and 8 (f)¹⁶ of the decision. A note prepared by the Secretariat pursuant to that request is set out in document UNEP/CHW.13/INF/17.

C. Proposed action

29. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Takes note* of the comments provided by Parties and others pertaining to paragraph 5 of decision BC-12/5¹⁷ and the responses-provided by Parties and others on their experience with the implementation of the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention;¹⁸

2. *Mandates* the small intersessional working group on e-waste established in decision BC-10/5, working by electronic means and, subject to the availability of funding, through a face-to-face meeting, to further explore options for addressing outstanding issues, in particular those listed in appendix V of the technical guidelines referred to in paragraph 1 above, taking into account the deliberations of the Conference of the Parties at its thirteenth meeting;

¹³ <http://basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>.

¹⁴

<http://basel.int/TheConvention/ConferenceoftheParties/Callforinformation/FollowuptoCOP12/tabid/4538/Default.aspx>.

¹⁵ <http://basel.int/Implementation/Ewaste/TechnicalGuidelines/DevelopmentofTGs/tabid/2377/Default.aspx>;

<http://basel.int/Countries/NationalDefinitions/EwasteandUsedEquipment/tabid/5105/Default.aspx>.

¹⁶ Subparagraphs 8 (c) and (f) of decision OEWG-10/5 read as follows: (c) That the potential link between the amendment set out in decision III/1 and the technical guidelines should be examined; (f) That the procedure for Party notification referred to in item 1 of appendix V should be further examined in terms of its practicality and legal implications.

¹⁷ UNEP/CHW.13/INF/15, annex.

¹⁸ UNEP/CHW.13/INF/16, annex.

3. *Invites* Parties and others to use the technical guidelines referred to in paragraph 1 above and to submit, not later than two months before the eleventh meeting of the Open-ended Working Group, through the Secretariat, comments on their experience in so doing;

4. *Encourages* Parties to inform the Secretariat about any conditions they apply in relation to used equipment that should normally be considered waste or non-waste;

5. *Requests* the Secretariat:

(a) To continue to provide, subject to the availability of resources, training to developing countries and other countries that are in need of assistance to use the technical guidelines, organizing such activities in cooperation with the Basel Convention regional and coordinating centres or by other appropriate means;

(b) To continue to provide, subject to the availability of resources, legal advice on the issues referred to in subparagraphs 8 (c) and 8 (f) of decision OEWG-10/5 for the consideration of the small intersessional working group on e-waste;

(c) To prepare a compilation of comments provided by Parties and others pursuant to paragraph 3 above for consideration by the Open-ended Working Group at its eleventh meeting;

(d) To publish information provided by Parties pursuant to paragraph 4 above on the Basel Convention website;

(e) To report on progress in the implementation of the present decision to the Open-ended Working Group at its eleventh meeting and to the Conference of the Parties at its fourteenth meeting.

III. Technical guidelines on the environmentally sound management of wastes consisting, containing or contaminated with mercury or mercury compounds

A. Introduction

30. By its decision BC-12/4, on technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with mercury, the Conference of the Parties adopted technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds.¹⁹

31. In paragraph 3 of the same decision, the Conference of the Parties requested the Secretariat to disseminate the technical guidelines to Parties and others, including the interim secretariat of the Minamata Convention on Mercury, in the six official languages of the United Nations.

32. In paragraph 4 of the decision, the Conference of the Parties invited Parties and others to use the technical guidelines and to submit, not later than two months before the thirteenth meeting of the Conference of the Parties, through the Secretariat, comments on their experience in so doing and on any developments regarding methods for the environmentally sound disposal of mercury wastes, including the long-term effectiveness of the stabilization and solidification of wastes consisting of mercury.

33. In paragraph 5 of the decision, the Conference of the Parties requested the Secretariat to prepare a compilation of the comments and information referred to in paragraph 4 of the decision for the consideration of next actions, including the possible updating of the technical guidelines, by the Conference of the Parties at its thirteenth meeting.

B. Implementation

34. The final versions of the technical guidelines were made available on the Basel Convention website²⁰ in the six official languages of the United Nations in May 2016, thanks to generous financial support provided by the Government of Japan. The interim secretariat of the Minamata Convention was informed of the advance English-language version of the technical

¹⁹ UNEP/CHW.12/5/Add.8/Rev.1.

²⁰ <http://basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>.

guidelines in January 2016. An overview of the cooperative activities undertaken between the Secretariat and the interim secretariat of the Minamata Convention on Mercury is provided in the note by the Secretariat on international cooperation and coordination (UNEP/CHW.13/19-UNEP/FAO/RC/COP.8/20-UNEP/POPS/COP.8/24) and associated documents cited therein.

35. By a letter dated 3 August 2015,²¹ the Secretariat invited Parties and others to submit comments and information relevant to paragraph 4 of decision BC-12/4. As at 10 October 2016, the Secretariat had not received any comments or information in that regard.

C. Proposed action

36. The Conference of the Parties may wish to take note of the information provided in the present note. The Conference of the Parties may also wish to suggest any further action as deemed necessary.

IV. Technical guidelines on incineration on land (D10), on specially engineered landfill (D5) and on hazardous waste physico-chemical treatment (D9) and biological treatment (D8)

A. Introduction

37. In the work programme of the Open-ended Working Group for the biennium 2016–2017 (decision BC-12/19, annex), the Conference of the Parties included consideration of whether the technical guidelines on incineration on land (D10), the technical guidelines on specially engineered landfill (D5) and the technical guidelines on hazardous waste physico-chemical treatment (D9) and biological treatment (D8) should be updated.

B. Implementation

38. Noting that, in accordance with decision OEWG-10/2 on developing guidelines for environmentally sound management, an online survey to assess the relevance and utility of the Basel Convention documents related to environmentally sound management, including the three technical guidelines referred to in the preceding paragraph, would be conducted by 15 November 2016, the Open-ended Working Group at its tenth meeting recommended that the Conference of the Parties at its thirteenth meeting consider whether the three technical guidelines should be updated, taking into account the results of the online survey.²²

39. The results of the online survey are set out in document UNEP/CHW.13/INF/18.

C. Proposed action

40. The Conference of the Parties may wish to consider whether the technical guidelines on incineration on land (D10), the technical guidelines on specially engineered landfill (D5) and the technical guidelines on hazardous waste physico-chemical treatment (D9) and biological treatment (D8) should be updated, taking into account the results of the online survey.

²¹

<http://basel.int/TheConvention/ConferenceoftheParties/Callforinformation/FollowuptoCOP12/tabid/4538/Default.aspx>.

²² UNEP/CHW/OEWG.10/13, para. 64.

附件6 環境友善管理工作方案



**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (a) (ii) of the provisional agenda*

**Matters related to the implementation of the Convention:
strategic issues: follow-up to the Indonesian-Swiss
country-led initiative to improve the effectiveness of the
Basel Convention**

Follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention

Addendum

Draft work programme of the expert working group on environmentally sound management

Note by the Secretariat

1. As referred to in document UNEP/CHW.13/4, the annex to the present note sets out the draft work programme of the expert working group on environmentally sound management. The draft work programme, as adopted by the twelfth meeting of the Conference of the Parties, has been annotated to include two additional columns: the first providing information on the status of activities, and the second providing proposals for the 2018–2019 work programme.
2. By paragraph 8 of decision 12/1 on follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention, the Conference of the Parties recognized that the “ESM toolkit” to be developed under the work programme of the expert working group on environmentally sound management may be evaluated and, if appropriate, updated after the thirteenth meeting of the Conference of the Parties.
3. At its sixth meeting, from 17 to 19 January 2017 in Mechelen, Belgium, the expert working group reviewed the progress it had made in the development of the ESM toolkit and the implementation of its work programme. As many of the tools within the ESM toolkit were yet to be finalized and fully utilized by Parties and other stakeholders, it was determined by the group that an extensive evaluation of the toolkit might, at that time, be premature. In considering the continued development of the toolkit, the expert working group determined that further work may be required by it in the upcoming biennium in order to complete its activities. The group also determined that an additional two activities might add value to the ESM toolkit and thus included these activities in its work programme for the upcoming biennium.
4. The present note, including its annex, has not been formally edited.

* UNEP/CHW.13/1.

Annex

Draft annotated work programme of the expert working group on environmentally sound management

I. Objective

1. The work programme of the expert working group (EWG) on environmentally sound management (ESM) will support and implement the objectives of the framework for the environmentally sound management of hazardous wastes and other wastes.¹ The work programme aims at developing an “ESM toolkit” that includes practical tools to be promoted and implemented by stakeholders.

II. ESM toolkit and its promotion

2. The activities described below to develop and implement the ESM toolkit would be conducted during the 2018–2019 biennium.

Topic	Activities	Status of activities	Proposal for 2018–2019 work programme
Manuals and fact sheets	<ul style="list-style-type: none"> Finalize existing manuals and fact sheets as required following COP-12 Test and verify manuals and fact sheets, e.g., through use in pilot projects and stakeholder/peer review Develop and further test manuals (extended producer responsibility (EPR); financing systems) 	<ul style="list-style-type: none"> A revised set of six draft practical manuals is submitted to COP-13 for its consideration and possible adoption²; a revised set of draft fact sheets on specific waste streams is submitted to COP-13 for its consideration³. Draft practical manual on insurance and liability requires further work. Two pilot projects are under development (through BCRC China and BCRC Slovakia) to test certain manuals and fact sheets. A further 2 pilot projects will be launched following COP-13. Draft EPR and financing systems manuals are submitted to COP-13 for its consideration⁴. 	<ul style="list-style-type: none"> Finalize practical manual on insurance and liability, taking into account outcome of pilot project in Argentina and development of draft guidance on insurance, bond and guarantee by the Implementation and Compliance Committee. Finalize the 4 pilot projects to test manuals and fact sheets. Finalize practical manuals on EPR and financing systems, as appropriate.
Guidance on prevention and minimization ⁵	<ul style="list-style-type: none"> Develop guidance to assist parties, as appropriate, in developing efficient strategies for achieving the prevention 	<ul style="list-style-type: none"> Draft guidance on prevention and minimization is submitted to COP-13 	<ul style="list-style-type: none"> Finalize guidance on prevention and minimization, as appropriate.

¹ Available on the Basel Convention website at: <http://www.basel.int/Implementation/CountryLedInitiative/EnvironmentallySoundManagement/ESMFramework/tabid/3616/Default.aspx>.

² Document UNEP/CHW.13/4/Add.1.

³ Document UNEP/CHW.13/INF/7.

⁴ Document UNEP/CHW.13/INF/8.

⁵ As requested in the road map for action on the implementation of the Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes (decision BC-12/2).

Topic	Activities	Status of activities	Proposal for 2018–2019 work programme
	and minimization of the generation of hazardous and other wastes and their disposal ⁶	for its consideration ⁷ .	
Training programme models	<ul style="list-style-type: none"> Identify training programmes and activities to test, raise awareness of and demonstrate the toolkit 	<ul style="list-style-type: none"> A compilation of training materials is available in the ESM section of Basel Convention website⁸. 	<ul style="list-style-type: none"> No further action proposed.
Internet portal	<ul style="list-style-type: none"> Organize, with support from the Secretariat, webinars to raise awareness of the toolkit and the outcome of the work of the expert working group Explore and engage possible partners to develop an e-learning course on ESM Collect information, best practices and experiences related to ESM, to be made available on the Basel Convention website 	<ul style="list-style-type: none"> Secretariat hosted four webinars during current biennium to disseminate outcomes of the work of the group. Further work would be required to develop an e-learning course. Secretariat, under the guidance of EWG, developed an ESM portal on the Basel Convention website. 	<ul style="list-style-type: none"> Explore and engage possible partners to develop an e-learning course on ESM.
Guide for self-assessment of national capacity	<ul style="list-style-type: none"> Develop draft guide for self-assessment and, with support from the Secretariat, engage interested parties to test it 	<ul style="list-style-type: none"> Guide for self-assessment of national ESM capacity is available in the ESM section of Basel Convention website. 	<ul style="list-style-type: none"> No further action proposed.
Certification schemes to support ESM	<ul style="list-style-type: none"> Analyse existing certification schemes, with regard to their operational aspects, to support ESM 	<ul style="list-style-type: none"> Draft practical manual on certification schemes developed; further work is required to analyse existing certification schemes. 	<ul style="list-style-type: none"> Analyse existing certification schemes, with regard to their operational aspects, to support ESM.
Promote ESM through tools	<ul style="list-style-type: none"> Further develop tools to promote ESM as described in the ESM framework Develop a practical guide to assessing ESM 	<ul style="list-style-type: none"> See “Guide for self-assessment of national capacity”. Further work may be required to develop tools to promote ESM or to develop a practical guide to assessing ESM. 	<ul style="list-style-type: none"> No further action proposed.
Analysis of benefits related to implementation of ESM	<ul style="list-style-type: none"> Continue and expand work on private sector incentives, to include an analysis of benefits related to implementation of ESM 	<ul style="list-style-type: none"> Report assessing possible incentives to encourage the private sector to invest in ESM, including an analysis of benefits 	<ul style="list-style-type: none"> No further action proposed.

⁶ Taking into account the prevention manual developed by the expert working group on environmentally sound management.

⁷ Document UNEP/CHW.13/INF/11.

⁸ See

<http://www.basel.int/Implementation/CountryLedInitiative/EnvironmentallySoundManagement/Overview/tabid/3615/Default.aspx>.

Topic	Activities	Status of activities	Proposal for 2018–2019 work programme
		related to implementation of ESM, is available in the ESM section of Basel Convention website.	
Pilot projects	<ul style="list-style-type: none"> Establish working structure/steering committee for pilot projects Continue to implement pilot projects and encourage use of the ESM toolkit in new pilot projects Report on and evaluate pilot projects undertaken in the context of the expert working group 	<ul style="list-style-type: none"> Working structure for pilot projects developed and is available in the ESM section of Basel Convention website; steering group for pilot projects established. Five pilot projects are in varying stages of implementation. Reports and evaluations of pilot projects to be developed / undertaken at the appropriate time. 	<ul style="list-style-type: none"> Finalize the 5 pilot projects. Develop outcome reports and undertake evaluations of pilot projects.
Exchange of information and experiences	<ul style="list-style-type: none"> Request and consider information on public-private partnerships that relate to ESM and the work of the expert working group, in particular to the ESM toolkit Develop and use a format for gathering and exchanging information and experiences related to ESM (e.g., through public-private partnerships, development of explanatory documents and case studies, secondments, etc.) Make available information and experiences on the internet portal described above 	<ul style="list-style-type: none"> Further work is required on activities relating to the exchange of information and experiences. 	<ul style="list-style-type: none"> Make available information and experiences submitted to the Secretariat in the ESM section of Basel Convention website.
Promotion of ESM in the informal sector	<ul style="list-style-type: none"> Identify target audience Collect and make available information on initiatives adopted by parties to promote ESM in the informal sector 	<ul style="list-style-type: none"> Information on ESM in the informal sector compiled by the group and is available in the ESM section of Basel Convention website. 	<ul style="list-style-type: none"> No further action proposed.

3. The expert working group on environmentally sound management proposes the inclusion of the following two new activities for its 2018–2019 work programme:

Topic	Activities
Promotion of the ESM toolkit	<ul style="list-style-type: none"> Promotion and dissemination of the ESM toolkit

Topic	Activities
Manuals and fact sheets (addition)	<ul style="list-style-type: none">• Development of a practical manual for stakeholders⁹ to ensure notifications of transboundary movements meet ESM requirements

⁹ Including competent authorities, exporters and generators.

附件 7 環境友善管理責任延伸及調查結果對應於執行巴塞爾公約要點效益



Distr.: General
21 February 2017
English only

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (a) (ii) of the provisional agenda*

**Matters related to the implementation of the Convention:
strategic issues: follow-up to the Indonesian-Swiss
country-led initiative to improve the effectiveness of the
Basel Convention**

**Report on the responses to the online survey to assess the relevance
and utility of the Basel Convention documents related to
environmentally sound management**

Note by the Secretariat

As referred to in the note by the Secretariat on follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention (UNEP/CHW.13/4), a report on the responses to the online survey to assess the relevance and utility of the Basel Convention documents related to environmentally sound management and an overview of the survey questions are set out in annex I and annex II to the present note respectively. The present note, including its annexes, has not been formally edited.

* UNEP/CHW.13/1.

Annex I

Report on the responses to the online survey to assess the relevance and utility of the Basel Convention documents related to environmentally sound management

I. Introduction

1. By decision BC-12/1 on the follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention, the Conference of the Parties requested the Secretariat, subject to available resources, to undertake an inventory and categorize existing Basel Convention documents related to environmentally sound management, under the guidance of the expert working group on environmentally sound management, for the consideration of the Open-ended Working Group at its tenth meeting.
2. In response, the Secretariat developed an inventory and categorization of existing Basel Convention documents related to environmentally sound management and submitted it to the expert working group for comment. In parallel, the Government of Canada offered to develop further the inventory and categorization, taking into account the comments received by the expert working group, and to produce an analysis on that basis. The inventory, categorization and analysis were submitted to the Open-ended Working Group at its tenth meeting, at which the Working Group in its decision OEWG-10/2 requested the Secretariat to develop an online survey to assess the relevance and utility of the Basel Convention documents related to environmentally sound management and to prepare a report on the survey results for consideration by the Conference of the Parties at its thirteenth meeting. The present report provides an overview of the survey results.

II. Methodology

3. Following the tenth meeting of the Conference of the Parties, the Secretariat developed an online survey seeking feedback on the following categories of documents relating to environmentally sound management (ESM): technical guidelines developed under the Convention; documents developed by the Partnership for Action on Computing Equipment (PACE); documents developed by the Mobile Phone Partnership Initiative (MPPI); and documents classified as “other guidance documents” such as training manuals. The survey was structured such that respondents could choose which questions they answered, with follow-up questions to probe deeper into the answers for certain questions. Following the document-specific sets of questions, a general section sought feedback on issues such as preferred channels for accessing ESM-related documents and those documents that should be prioritized for update or review. An overview of the survey questions is provided in annex II below.
4. The online survey was circulated to Parties and others on 15 September 2016. Parties and others were given until 15 November 2016 to provide their responses online or via email.

III. Responses received to the survey

A. Respondents to the survey

5. The Secretariat received 46 responses to the online survey: 45 from Parties to the Basel Convention and one from a non-governmental organization. The rate of responses received from Parties was thus approximately 25%. The regional distribution of respondents is shown in figure 1.

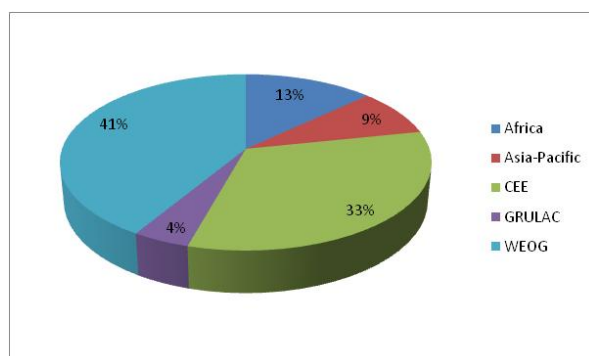


Figure 1: Regional distribution of respondents to online survey

B. Summary of responses to the survey

1. Technical guidelines

6. For each category of document, an aggregated view of responses will be provided, followed by any notable observations from the data collected.

1. In terms of the use of the technical guidelines overall¹, 65% of respondents have used the documents to support one or several activities; 18% have read documents but never used them to support their activities; and 16% admitted to never having read the documents. See figure 2.

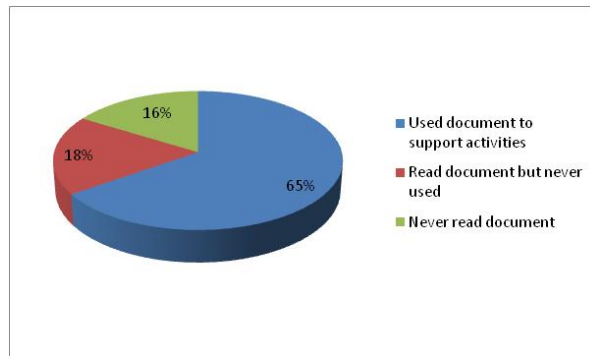


Figure 2: Use of technical guidelines

(a) I / We have used the document to support one or several activities.

2. For those respondents that have used the documents to support one or several activities, the main purposes for which are as a basis for awareness-raising, to draft training materials and “other”. “Other” reasons provided include for development cooperation purposes and to update regional or national guidelines. Many stated that because a number of the guidelines date back to the 1990s, it was difficult to provide an answer to such a question. See figure 3.

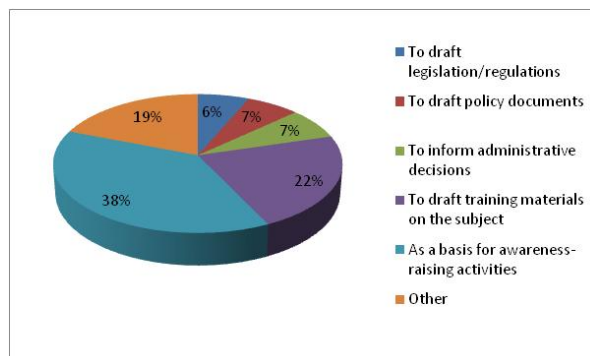


Figure 3: Reasons for use of technical guidelines

3. A minority of respondents use the documents on a monthly/yearly basis. For those responding “other” to this question, it was shown that this meant on an “as needed” basis. See figure 4.

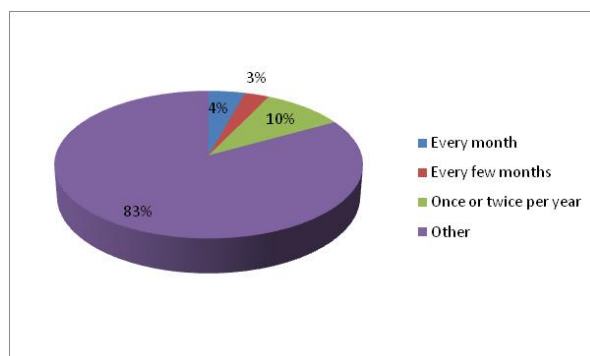


Figure 4: Frequency of use of technical guidelines

¹ These figures are obtained by aggregating the responses received to the questions on the individual documents.

4. When asked whether the documents were (partially) outdated or neither outdated nor obsolete, 67% of the respondents viewed the documents as being (partially) outdated, with the remainder finding them neither outdated nor obsolete. Those guidelines that were deemed to be (partially) outdated include the technical guidelines on ULAB, healthcare waste, household waste, waste oils, plastic waste and certain POPs guidelines; and those dealing with disposal operations, namely on specially engineered landfill (D5), physico-chemical (D9) and biological treatment (D8) and incineration on land (D10).

(b) I / We have read the document, but never used it to support any activity.

5. For those respondents that have read the documents, but never used them to support any activities, the predominant reasons were: (i) the issue is appropriately covered by national legislation/policy and (ii) the information is (partially) outdated or obsolete. See figure 5.

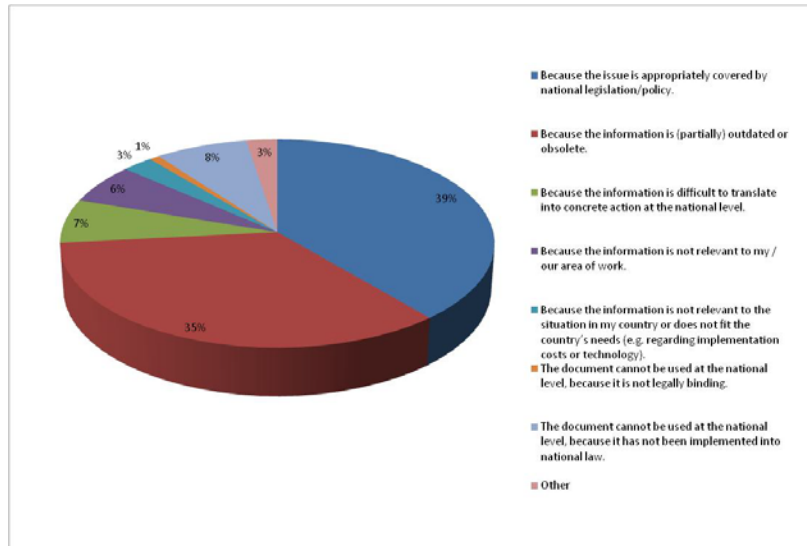


Figure 5: Reasons for not using the technical guidelines

(c) I / We have never read the document.

6. For those respondents who have never read the documents, over 90% had not done so because they were not aware of the documents' existence.

2. Partnership for Action on Computing Equipment (PACE)

7. In terms of the use of the PACE documents overall², 60% of respondents have used the documents to support one or several activities; 25% have read documents but never used them to support their activities; and 15% admitted to never having read the documents. See figure 6.

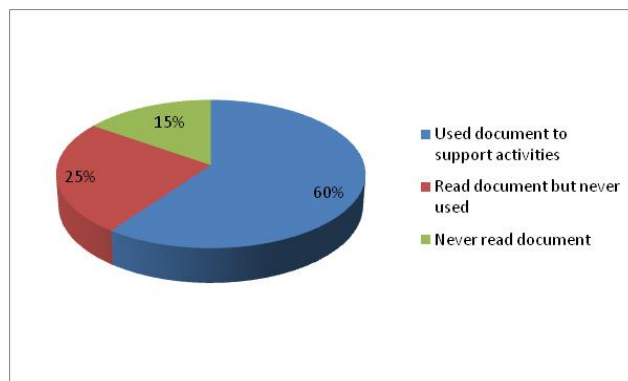


Figure 6: Use of PACE documents

(a) I / We have used the document to support one or several activities.

² These figures are obtained by aggregating the responses received to the questions on the individual documents.

8. For those respondents that have used the documents to support one or several activities, the main purposes for which are to draft training materials and as a basis for awareness-raising. See figure 7.

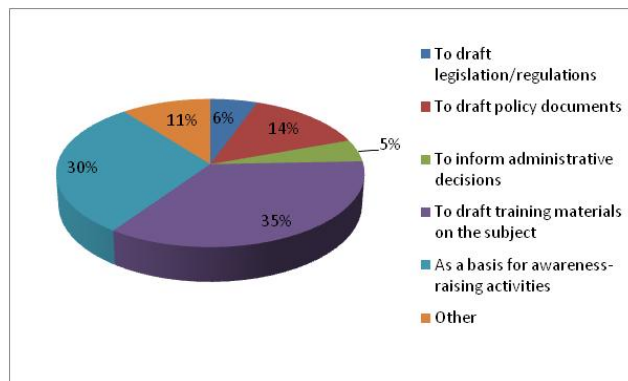


Figure 7: Reason for use of PACE documents

9. A minority of respondents use the documents on a monthly/yearly basis. For those responding “other” to this question, it was shown that this meant on an “as needed” basis. See figure 8.

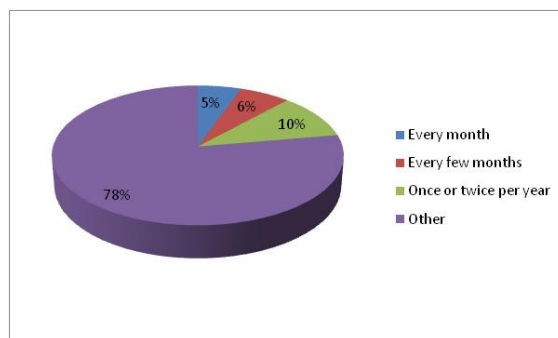


Figure 8: Frequency of use of PACE documents

10. When asked whether the documents were (partially) outdated or neither outdated nor obsolete, 74% of the respondents did not find them outdated or obsolete, with the remaining 26% finding them (partially) outdated. Those documents that were deemed to be (partially) outdated were the guidance document on the ESM of used and end-of-life computing equipment (2013) and the guidance on transboundary movement of used and end-of-life computing equipment.

(b) I / We have read the document, but never used it to support any activity.

11. For those respondents that have read the documents, but never used them to support any activities, the predominant reasons were: the issue is appropriately covered by national legislation/policy; the information is difficult to translate into concrete action at the national level; and the document cannot be used at the national level because it is not legally binding.

(c) I / We have never read the document.

12. For those respondents who have never read the documents, over 95% had not done so because they were not aware of the documents’ existence.

3. Mobile Phone Partnership Initiative (MPPI)

13. In terms of the use of the MPPI documents overall³, 73% of respondents have used the documents to support one or several activities; 10% have read documents but never used them to support their activities; and 17% admitted to never having read the documents. See figure 9.

³ These figures are obtained by aggregating the responses received to the questions on the individual documents.

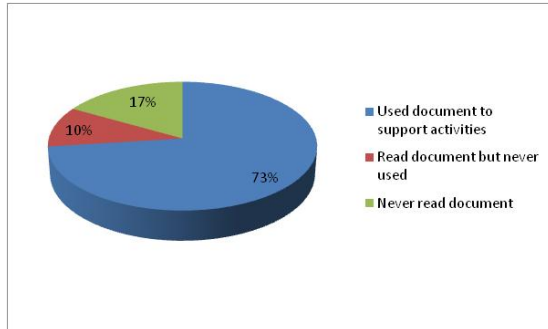


Figure 9: Use of MPPI documents

(a) **I / We have used the document to support one or several activities.**

14. For those respondents that have used the documents to support one or several activities, the main purposes for which are to draft training materials and as a basis for awareness-raising. See figure 10.

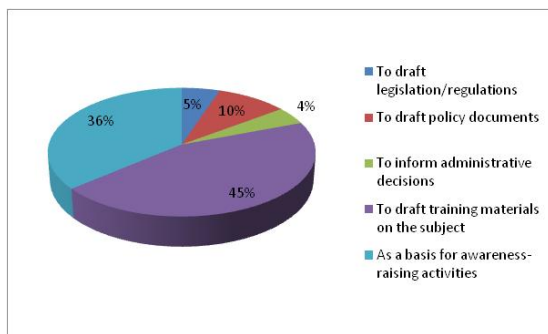


Figure 10: Reason for use of MPPI documents

15. A minority of respondents use the documents on a monthly/yearly basis. For those responding “other” to this question, it was shown that this meant on an “as needed” basis. See figure 11.

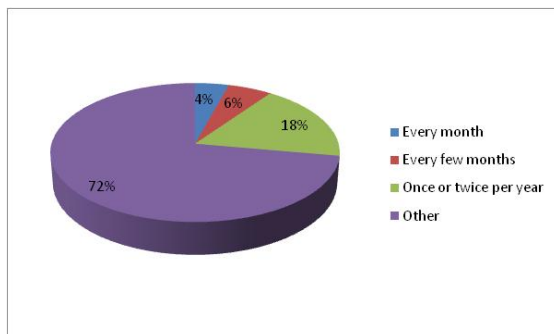


Figure 11: Frequency of use of MPPI documents

16. When asked whether the documents were (partially) outdated or neither outdated nor obsolete, 76% of the respondents did not find them outdated or obsolete, with the remaining 24% finding them (partially) outdated. Those documents that were deemed to be (partially) outdated were the guidance document on the ESM of used and end-of-life mobile phones (2011) and the guideline for the transboundary movement of collected mobile phones (2011).

(b) **I / We have read the document, but never used it to support any activity.**

17. For those respondents that have read the documents, but never used them to support any activities, the predominant reasons were: the issue is appropriately covered by national legislation/policy; and the information is difficult to translate into concrete action at the national level.

(c) **I / We have never read the document.**

18. For those respondents who have never read the documents, approximately 80% had not done so because they were not aware of the documents’ existence. The remaining 20% stated that the documents were not relevant to the respondents’ area of work.

4. Other guidance documents

19. The documents covered in the under this category are:

- (a) The methodological guide for the development of inventories of hazardous waste and other wastes under the Basel Convention (2015);
- (b) The training manual for the preparation of national used lead-acid batteries environmentally sound management plans in the context of the implementation of the Basel Convention (2004);
- (c) The training manual for the preparation of a national environmentally sound management plan for PCBs and PCB-contaminated equipment (2003);
- (d) The training manual for the destruction and decontamination technologies for PCBs and other POP wastes (Vols. A, B and C) (2002).

20. Seventy percent of the respondents have read the methodological guide, but have never used it to support any activities, the main reason being that the issue is appropriately covered by national legislation/policy. Those using the document to support activities have done so to draft training materials, to draft legislation/regulations and to draft policy documents. Those having not read the document had not done so mainly because they were not aware of its existence. It was not believed by respondents that this document is (partially) outdated or obsolete.

21. The data obtained for the three training manuals is similar: approximately 70% of the respondents have read the training manuals but have not used them to support any activities; the main reasons being that the issues are appropriately covered by national legislation/policy and the information provided is (partially) outdated or obsolete. Those using the training manuals to support activities have done so to draft training materials, to inform administrative decisions (e.g., permits for industry) and as a basis for awareness-raising activities/campaigns. Those having not read the training manuals had not done so mainly because they were not aware of their existence. Over 80% of those using the training manuals did not view them as (partially) outdated or obsolete. It should be noted, however, that a reason provided by 70% of those respondents not using the manuals is because they are (partially) outdated or obsolete.

5. General findings

In the final section of the survey, respondents were asked a series of questions on the:

- (a) Preferred channel for accessing Basel Convention ESM documents;
- (b) Channels used for disseminating these documents at national level;
- (c) ESM documents to be prioritised for update or review;
- (d) Additional topics related to ESM for which guidelines or other documents might be developed;
- (e) Ranking the usage of guidelines and other materials.

(a) Preferred channel for accessing Basel Convention ESM documents

Respondents clearly favoured accessing ESM documents through the Basel Convention website; access via CD-ROM was listed as a second preference for many. See figure 12.

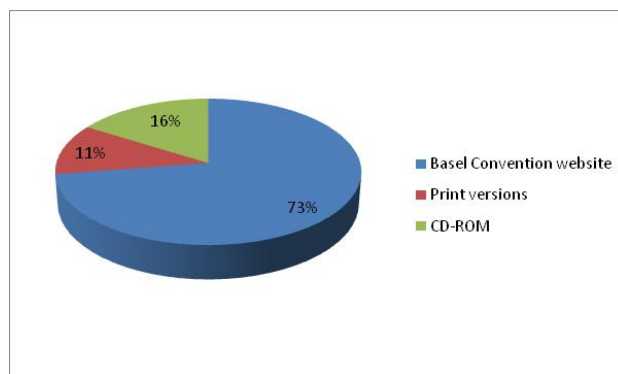


Figure 12: Preferred channel for accessing ESM documents

(b) **Channels used for disseminating Basel Convention ESM documents at national level**

Most documents are distributed by the respondents to stakeholders at the national level through links to the Basel Convention website. A number of respondents expressed their wish to also be able to distribute printed versions of the documents.

(c) **ESM documents to be prioritised for update or review**

For this question, respondents were asked to list three of the documents included in the survey that they would prioritise for update or review. Notably, only 11 respondents, or approximately 25% of those who participated in the survey, responded to this question. Two respondents cited the need for the Basel Convention website and printed versions of the ESM documents to be updated. One respondent was of the opinion that all ESM documents should be reviewed or updated. See table 1.

Guideline for update or review	No. of respondents
Specially Engineered Landfill (D5)	4
Wastes Collected from Households (Y46)	3
ESM of Biomedical and Healthcare Wastes (Y1; Y3)	3
TBM of e-waste	3
ESM of plastic wastes and for their disposal	3
Incineration on Land (D10)	3
Waste Oils from Petroleum Origins and Sources (Y8)	1
Dismantling of ships	1
Physico-Chemical Treatment (D9) / Biological Treatment (D8)	1
Guidelines on hazardous characteristics	1

Table 1: ESM documents to be prioritised for update or review

(d) **Additional topics related to ESM for which guidelines or other documents might be developed**

Only 7, or 15%, of respondents provided an answer to the question of whether there are topics related to ESM for which guidelines or training materials should be developed. Individual respondents thought the following topics might be considered:

- (a) Materials to cover training on e-waste;
- (b) ESM of contaminated drums;
- (c) ESM of waste in educational administrations;
- (d) ESM of petroleum residues;
- (e) Use of appropriate devices for the detection of hazardous waste in hardware, goods, and how to set parameters for concentrations of hazardous substances in the waste;
- (f) ESM of asbestos;
- (g) Waste streams that are of interest due to their hazardous characteristics, volumes, or current management practices. For example, construction and demolition waste and end-of-life vehicles.

(e) **Ranking for the use of guidelines and other materials**

Whilst only 12, or 26%, of respondents ranked the potential uses of guidelines and other materials from the most to least important, the aggregated response to this question reveals the following order of importance: development of national legislation; policy development; awareness-raising; and training.

Annex II

Overview of the survey questions

Have you ever used the following document to support a specific activity related to ESM:

- a) I / We have used the document to support one or several activities.
- b) I / We have read the document, but never used it to support any activity.
- c) I / We have never read the document.

If you answered a) to the above question:

Please indicate for which purpose(s) you used the document:

- To draft legislation/regulations
- To draft policy documents (e.g. implementation strategies, roadmaps, etc.)
- To inform administrative decisions (e.g. permits for industry)
- To draft training materials on the subject
- As a basis for awareness-raising activities/campaigns
- Other: Please specify.

Please indicate how frequently you use the document:

- Every month
- Every few months
- Once or twice per year
- Other: Please specify.

Do you believe that the document is (partially) outdated or obsolete?

- Yes, the document is (partially) outdated.
- Yes, the document is (partially) obsolete.
- No, the document is neither outdated nor obsolete.
- Other: Please specify.

If you believe that the document is (partially) outdated or obsolete, please elaborate.

If you wish to provide any further comments on the usefulness of the abovementioned document, please use the text box below.

If you answered b) to the above question:

Please indicate why you did not use the document to support any activity after having read it:

- Because the issue is appropriately covered by national legislation/policy.
- Because the information is (partially) outdated or obsolete.
- Because the information is difficult to translate into concrete action at the national level.
- Because the information is not relevant to my / our area of work.
 - Because the information is not relevant to the situation in my country or does not fit the country's needs (e.g. regarding implementation costs or technology).
 - The document cannot be used at the national level, because it is not legally binding.
 - The document cannot be used at the national level, because it has not been implemented into national law.
 - Other: Please specify.

If you believe that the document is (partially) outdated or obsolete, please elaborate.

If you believe that the information is not relevant to the situation in your country or does not fit the country's needs (e.g. regarding implementation costs or technology), please elaborate.

If you wish to provide any further comments on the usefulness of the abovementioned document, please use the text box below.

If you answered c) to the above question:

Please indicate why you never read the document:

- Because I was not aware that the document existed.
- Because the issue is appropriately covered by national legislation/policy.
- Because the document is (partially) outdated or obsolete.
- Because the document is not relevant to my / our area of work.
 - Because the information is not relevant to the situation in my country or does not fit the country's needs (e.g. regarding implementation costs or technology).
- The document cannot be used at the national level, because it is not legally binding.
 - The document cannot be used at the national level, because it has not been implemented into national law.
- Other: Please specify.

If you believe that the document is (partially) outdated or obsolete, please elaborate.

If you believe that the information is not relevant to the situation in my country or does not fit the country's needs (e.g. regarding implementation costs or technology), please elaborate.

If you wish to provide any further comments on the usefulness of the abovementioned document, please use the text box below.

General questions

What is your preferred channel for accessing the Basel Convention documents on environmentally sound management?

- Basel Convention website
- Print versions
- CD-Rom
- Other: Please specify.

Through which channels do you usually disseminate the Basel Convention documents on environmentally sound management at the national level?

Which three documents would you prioritize for review/updating?

Are there topics related to environmentally sound management that you need, or would like guidelines or other training materials to cover? If yes, please specify.

Please order the following potential uses of guidelines and other materials from the most to the least important:

- Awareness-raising
 - National legislation
 - Policy development
 - Training
-

附件 8 違反巴塞爾公約規定的非法運送處理方式之指引



Distr.: General
9 November 2016

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (c) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
legal, compliance and governance matters: Committee
Administering the Mechanism for Promoting
Implementation and Compliance**

**Committee Administering the Mechanism for Promoting
Implementation and Compliance**

Addendum

**Guidance on the implementation of the Basel Convention provisions dealing
with illegal traffic (paragraphs 2, 3 and 4 of Article 9)**

Note by the Secretariat

As referred to in document UNEP/CHW.13/9, the annex to the present note sets out the draft guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9) prepared by the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention. The present note, including its annex, has not been formally edited.

* UNEP/CHW.13/1.

Annex

Guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9)

(Draft of 20 October 2016)

Contents

Foreword.....	3
1. Objectives of the guidance document	4
2. Determining whether a shipment is deemed to be illegal traffic	6
2.1. The Basel Convention provisions pertaining to illegal traffic	6
2.2. Determining the applicability of paragraphs 2, 3 or 4 of Article 9	8
2.2.1. Steps for determining whether paragraph 2, 3 or 4 of Article 9 of the Convention applies.8	
2.2.2. Actors involved in determining whether paragraph 2, 3 or 4 of Article 9 of the Convention applies.....	14
3. States and entities involved in implementing the requirements set out in paragraphs 2, 3 and 4 of Article 9	14
3.1. States involved	14
3.1.1. Parties	14
3.1.2. Non-Party States.....	16
3.2. Entities involved.....	16
3.3. Initial contact and immediate measures	16
4. Illegal traffic deemed to be as the result of conduct on the part of the exporter or generator (paragraph 2 of Article 9)	17
4.1. The take-back of the wastes	17
4.1.1. Request for the take-back	18
4.1.2. Notification of the take-back.....	20
4.1.3. Costs related to the take-back.....	20
4.2. In case take-back is impracticable.....	21
4.2.1. The disposal of the wastes	21
4.2.2. Costs related to the disposal of the wastes	22
4.3. Action to be taken following the take-back or disposal of the wastes	22
5. Illegal traffic deemed to be as a result of conduct on the part of the importer or disposer (paragraph 3 of Article 9)	23
5.1. The disposal of the wastes by the importer or disposer, or State of import.....	23
5.2. The costs related to the disposal of the wastes	24
5.3. Action to be taken following disposal of the wastes	24
6. Where responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9)	25
6.1. The disposal of the wastes	25
6.2. The costs related to the disposal of the wastes	26
6.3. Action to be taken following disposal of the wastes	26
7. Procedures and mechanisms in case of disagreement between the Parties	26
8. Emergencies and liability for damage	27
Appendix 1: Form for the take-back of wastes deemed to be illegal traffic in accordance with paragraph 2 of Article 9 of the Basel Convention: request for take-back	28
Appendix 2: Graphic illustration of the suggested take-back procedure (paragraph 2 of Article 9).....	35
Appendix 3: Case study on the implementation of the take-back procedure (paragraph 2 of Article 9).....	36
Appendix 4: Graphic illustration in case take-back of the wastes is considered impracticable (paragraph 2 of Article 9)	36
Appendix 5: Graphic illustration in case the illegal traffic deemed to be as a result of conduct on the part of the importer or disposer (paragraph 3 of Article 9)	1
Appendix 6: Graphic illustration of the implementation of the duty to cooperate where the responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9)	2
Appendix 7: Case study on the implementation of the duty to cooperate where the responsibility for the illegal traffic could not be assigned (paragraph 4 of Article 9)	3

Foreword

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (hereinafter referred to as the “Basel Convention”) was adopted in 1989 and entered into force on 5 May 1992. As of June 2016 183 States and the European Union were Parties to the Convention.

The Basel Convention establishes, among others, an internationally agreed binding mechanism to control transboundary movements of hazardous wastes and other wastes subject to the Convention. Such movements can only take place in compliance with specific conditions and procedures. In Article 9, the Convention defines under what circumstances a transboundary movement of hazardous or other wastes is deemed to be illegal traffic and also provides for obligations regarding such illegal traffic.

Under the Convention, Parties consider that illegal traffic is criminal. Moreover, each Party has the obligation to introduce appropriate national/domestic legislation to prevent and punish illegal traffic. Parties have a general obligation to cooperate with a view to achieving the objects of Article 9 of the Convention. In cases where the transboundary movement of hazardous wastes or other wastes is deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, paragraph 2 of Article 9 requires the State of export to ensure that the wastes in question are taken back by the exporter or generator or, if necessary, by itself into the State of export, or, if impracticable, are otherwise disposed of in accordance with the provisions of the Basel Convention. Paragraph 3 of Article 9 sets provisions for those cases where the transboundary movement of hazardous wastes or other wastes is deemed illegal traffic as the result of conduct on the part of the importer or disposer. In these cases the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by the State itself. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator, or to the importer or disposer, the Parties concerned shall ensure through cooperation that the wastes in question are disposed of as soon as possible in an environmentally sound manner, as set forth in paragraph 4 of Article 9. Improper implementation of paragraphs 2, 3 and 4 of Article 9 may lead to the dumping of the wastes and therefore harm to human health and the environment.

This document has been prepared with a view to providing guidance to Parties on how to implement in practice the aforementioned provisions that deal with the consequences of illegal traffic under the Convention. Users should also ensure that they are familiar with relevant regional, national and/or other domestic laws implementing the Basel Convention, as each State’s approach can vary slightly, and Parties have the right under the Convention to supplement the Basel Convention with their own national definitions of hazardous wastes, and their own restrictions or prohibitions of imports, transit or exports. Parties may also take more stringent measures than provided under the Convention in order to better protect human health and the environment.

The preparation of this guidance document was initiated under the 2012-2013 work programme of the Committee Administering the Mechanism for Promoting Implementation and Compliance (hereinafter referred to as the “Committee”) with the obligations under the Convention, more particularly the request that the Committee review Parties’ implementation of and compliance with the take-back provision set forth in paragraph 2 of Article 9 of the Basel Convention as well as develop a guidance document based on best practices suggesting a harmonized approach to the implementation of the take-back provision. Decision BC-12/7 provided a further mandate to the Committee, by which it was agreed to expand the guidance to instances falling within the scope of paragraphs 3 and 4 of Article 9 of the Convention. The finalization of this guidance document was undertaken within the framework of the 2016-2017 work programme of the Committee, including through consultations with the Open-ended Working Group of the Basel Convention during its tenth meeting (Nairobi, Kenya, 29 May-2 June 2016). It was adopted by the thirteenth meeting of the Conference of the Parties by decision BC-13/[...].

The development of this guidance document was made possible thanks to the financial support provided by the European Union and Japan.

1. Objectives of the guidance document

1. The Conference of the Parties at its tenth meeting, in its decision BC-10/11, mandated the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention (hereinafter referred to as the “Committee”) to review Parties’ implementation of and compliance with the take-back provision set forth in paragraph 2 of Article 9 of the Basel Convention,¹ as well as to develop a guidance document based on best practices and suggesting a harmonized approach to the implementation of the take-back provision.² Pursuant to the mandate enshrined in decision BC-12/7, the scope of the guidance was expanded to paragraphs 3 and 4 of Article 9 of the Convention.
2. The guidance document is intended to provide practical and workable guidance for all actors involved in the control of transboundary movements of the wastes subject to the Basel Convention: competent authorities, as well as the various entities involved directly or indirectly in the implementation and enforcement of the Convention (e.g. Customs, port authorities, environmental inspectors, police, prosecutors, judges). The guidance also aims at harmonizing the way Parties deal with illegal traffic as the result of conduct on the part of the exporter or generator (paragraph 2 of Article 9), the importer or disposer (paragraph 3 of Article 9), as well as with cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator, or to the importer or disposer (paragraph 4 of Article 9).
3. The content of the guidance document is based on experiences of Parties and on guidance documents developed by relevant enforcement networks.³ These experiences were gathered by means of two questionnaires⁴ developed by the Committee, which aimed to collect information from Parties on their implementation of and compliance with the take-back provision set forth in paragraph 2 of Article 9 of the Basel Convention, and the provisions set forth in paragraph 3 and 4 of Article 9, including on the difficulties faced by Parties.
4. This guidance focuses on the determination of whether there is a case of illegal traffic and whose conduct is deemed to have resulted in the illegal traffic. Depending on who is responsible, or if no responsibility can be assigned, the guidance zooms in on the aspects of either the operationalization of the take-back obligation, or the environmentally sound disposal of the wastes in question. The last chapter covers related provisions in the Basel Convention of relevance to addressing damage caused by illegal traffic, notably Article 12 on liability for damage and Article 14, paragraph 2, on emergency funding. In this manner, the guidance aims to assist Parties implement and comply with these provisions in a consistent manner, thereby also facilitating the resolution of any resulting questions.
5. Seven appendices complete this guidance: appendix 1 is a form to be used for requesting the take-back and for notifying about the take-back of wastes deemed to be illegal traffic, appendix 2 provides a graphic

¹ The text of the Basel Convention is available at:

<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>.

² It is worth noting that the Conference of the Parties at its tenth meeting also adopted BC-10/3 on the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention, that requests the Secretariat to collect and disseminate examples of best practices in enforcement in addition to practical arrangements such as procedures for take-back in case of detected illegal traffic. Clarity as to the practical implementation – or operationalization - of the take-back provision embedded in paragraph 2 of Article 9 thus appears to be of particular importance to the Parties to the Convention. The issue of the implementation of the take-back provision was discussed at the seventh session of the Implementation and Compliance Committee. At that time Committee members and observers, for instance the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) -Transfrontier Shipments of Waste (TFS) cluster, engaged in a discussion on possible opportunities of cooperation to ensure the take back of waste (Paragraph 10 of the report of the seventh session of the Committee (UNEP/CHW/CC/7/10)).

³ IMPEL TFS Manual on the return of illegal shipments of waste: <http://impel.eu/projects/manual-on-the-return-of-illegal-shipments-of-waste/>; International Network for Environmental Compliance and Enforcement (INECE) Operational Guidance for the Take-back of Detected Illegal Shipments of Waste.

⁴ Document UNEP/CHW/CC.9/INF/4: Take-back provision: responses from Parties and examples of take-backs, is available at:

<http://www.basel.int/TheConvention/ImplementationComplianceCommittee/Meetings/ICC9/MeetingDocuments/tabid/2872/Default.aspx>.

Responses from Parties to the questionnaire pertaining to paragraphs 3 and 4 of Article 9 are available at: <http://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities201617/IllegalTraffic/tabid/4581/Default.aspx>.

illustration of the take-back procedure (paragraph 2 of Article 9), appendix 3 is a case study of how the take-back procedure has been implemented in one instance, appendix 4 provides a graphic illustration for those cases where take-back of the wastes is considered impracticable (paragraph 2 of Article 9), appendix 5 provides a graphic illustration in case the illegal traffic is deemed to be the result of conduct on the part of the importer or disposer (paragraph 3 of Article 9), appendix 6 provides a graphic illustration of the implementation of the duty to cooperate where the responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9), and appendix 7 includes a case study of the implementation of the duty to cooperate where the responsibility for the illegal traffic could not be assigned (paragraph 4 of Article 9).

6. This guidance builds on and, as appropriate, refers to some of the guidance developed in the framework of the Convention to assist Parties implement and comply with their obligation, under paragraph 4 of Article 4 and paragraph 5 of Article 9, to adopt adequate legal, administrative and other frameworks. Regarding the take-back provision, the Checklist for the Legislator,⁵ for instance, mentions that national legislation should include provisions for actions to be taken by the exporter, generator, importer or disposer in the case of illegal traffic. This guidance document is also intended to complement existing guidance available under the Basel Convention pertaining to the detection, investigation and prosecution of illegal traffic, namely:

(a) *The Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes* adopted by the sixth meeting of the Conference of the Parties;⁶

(b) *The Training Manual for the Enforcement of Laws Implementing the Basel Convention: Guidance for Safe and Effective Detection, Investigation and Prosecution of Illegal Traffic in Hazardous and other Wastes* adopted by the fifth session of the Open-ended Working Group of the Basel Convention (hereafter the "OEWG"),⁷ on behalf of the Conference of the Parties;⁸

(c) *The Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes* approved by the tenth meeting of the Conference of the Parties.⁹

7. It is important to note that a proper understanding of the Basel Convention control procedure for transboundary movements of hazardous and other wastes is a prerequisite for the implementation of the Convention's provisions pertaining to illegal traffic. Information and guidance on the Basel Convention control procedure, as set out in Article 6 of the Convention, is available in a leaflet on *Controlling Transboundary Movement of Hazardous Wastes*,¹⁰ in the *Guide to the Control System*¹¹ and, more generally, in the *Manual for the Implementation of the Basel Convention*.¹² The attention of the reader is therefore directed to these resources as well.
8. It should also be noted that priority should be given to promoting various measures to prevent illegal traffic from occurring in the first place. Such measures may encompass measures for enhanced cooperation at the national and international levels including with Customs, national and international awareness raising

5 The Checklist for the legislator is set out in annex I to the Manual for the implementation of the Basel Convention adopted by the twelfth meeting of the Conference of the Parties by decision BC-12/7. The manual is available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

6 Decision VI/16. The Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes is available at: <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>.

7 Decision OEWG-V/9. The Training Manual for the Enforcement of Laws Implementing the Basel Convention: Guidance for Safe and Effective Detection, Investigation and Prosecution of Illegal Traffic in Hazardous and other Wastes is available at: <http://archive.basel.int/legalmatters/illegaltraffic/index.html>.

8 Decision VII/34.

9 Decision BC-10/18. The Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes is available at: <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>.

10 This publication, developed by the Implementation and Compliance Committee, is available at: <http://www.basel.int/TheConvention/Publications/BrochuresLeaflets/tabid/2365/Default.aspx>.

11 The Guide to the control system was adopted by the twelfth meeting of the Conference of the Parties by decision BC-12/7. The Guide is available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

12 The Manual for the implementation of the Basel Convention was adopted by the twelfth meeting of the Conference of the Parties by decision BC-12/7. The Manual is available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

campaigns, effective detection and enforcement measures, intelligence on patterns of non-compliance, and strategies to identify certain waste streams at source.¹³

2. Determining whether a shipment is deemed to be illegal traffic

2.1. The Basel Convention provisions pertaining to illegal traffic

9. The Basel Convention defines in paragraph 1 of its Article 9 in what instances a transboundary movement of hazardous wastes or other wastes shall be deemed to be illegal traffic. Five specific instances are listed:

(a) A transboundary movement without notification pursuant to the provisions of this Convention to all States concerned.

The State of export, or the generator or exporter of the wastes,¹⁴ needs to notify¹⁵ in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned (import and transit if applicable) of any proposed transboundary movement of hazardous wastes and other wastes (paragraph 1 of Article 6). A transboundary movement of wastes undertaken without such prior notification to all concerned competent authorities amounts to illegal traffic.

(b) A transboundary movement without the consent pursuant to the provisions of this Convention of a State concerned.

The State of import has to respond to the notifier (State of export, generator or exporter) in writing, consenting to the movement with or without conditions, or denying permission for the proposed transboundary movement of hazardous wastes and other wastes, or requesting additional information (paragraph 2 of Article 6). The Convention also contains provisions with respect to the State of transit (paragraph 4 of Article 6). Under this provision, the State of export is not allowed to commence the transboundary movement until it has received the written consent of the State of transit. The State of transit may, however, decide not to require prior written consent, either generally or under specific conditions, and thereby allow the State of export to proceed with the transboundary movement within 60 days of the receipt of a given notification by the State of transit, provided that the State of export has not received a response from the State of transit within that time period. In order to waive the prior written consent requirement, the State of transit must inform the other Parties of its decision through the Secretariat, pursuant to Article 13. A transboundary movement of wastes undertaken without the consent of a State concerned, as provided under the Convention, amounts to illegal traffic.

(c) A transboundary movement with consent obtained from States concerned through falsification, misrepresentation or fraud is considered to amount to illegal traffic.

(d) A transboundary movement that does not conform in a material way with the documents is considered as illegal.

If there is a material discrepancy between the movement document¹⁶ accompanying the waste and the actual amount/nature of the wastes, the transboundary movement is considered to amount to illegal traffic.

(e) A transboundary movement that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law is considered to amount to illegal traffic.

¹³ See paragraphs 71 to 125 of the Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes, available at:

<http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>.

¹⁴ In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous only by the State of import or by the States of import and transit which are Parties, the requirements of paragraph 1 of Article 6 that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively.

¹⁵ The notification and movement documents as well as instructions for completing them were adopted by COP-8 and are available at:

<http://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>.

¹⁶ See footnote 15.

10. All the competent authorities concerned, namely from the State of export, the State of transit (if any) and the State of import, are to check whether the movement is planned to or is taking place in accordance with applicable rules and regulations implementing the Basel Convention.
11. Legislation implementing the Basel Convention must implement at a minimum paragraph 1 of Article 9. Examples of additional related offences in national law could include the following circumstances:
 - (a) The intended disposer does not exist;
 - (b) The intended disposer does not have a license to dispose of the wastes in an environmentally sound manner;
 - (c) The intended disposer does not have the required capacity to treat the wastes in an environmentally sound manner;
 - (d) There is no contract between the exporter and the disposer specifying environmentally sound management (hereinafter referred to as "ESM") of the wastes in question;
 - (e) There is an import ban in the State of import;
 - (f) There is an export ban in the State of export.
12. However, it is important to note that Parties are only bound by the obligations set out in paragraphs 2, 3 and 4 of Article 9 in the event the shipment of hazardous wastes and other wastes is deemed to be illegal traffic pursuant to paragraph 1 of Article 9.
13. In addition to defining what is deemed to constitute illegal traffic, the Basel Convention provides that Parties consider that illegal traffic is criminal,¹⁷ and each Party has the obligation to introduce appropriate national/domestic legislation to prevent and punish illegal traffic.¹⁸
14. The Basel Convention goes one step further by specifying the obligations of States concerned in instances in which the transboundary movement of hazardous or other wastes is deemed to be illegal traffic.
15. Paragraph 2 of Article 9 of the Convention addresses the specific cases where a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the exporter or generator:

"2. In case of a transboundary movement of hazardous wastes or 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, by itself into the State of export, or, if impracticable,
 - (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."
16. In paragraph 3 of Article 9, the Convention specifies the requirements in instances in which a transboundary movement of hazardous or other wastes is deemed to be illegal traffic as a result of conduct on the part of the importer or disposer, along with the obligations of the State of import and other States concerned in these instances:

"3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner."
17. Paragraph 4 of Article 9 provides for the requirements in those instances in which the responsibility for the illegal traffic cannot be assigned to either the exporter or generator or the importer or disposer:

"4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation, that the wastes in question are disposed

¹⁷ Paragraph 3 of Article 4 of the Basel Convention.

¹⁸ Paragraph 4 of Article 4 of the Basel Convention; Paragraph 5 of Article 9 of the Basel Convention.

of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.”

18. Regardless of the scenario, Parties have an obligation to cooperate with a view to achieving the objects of Article 9 of the Convention.¹⁹
19. In addition to the introduction of appropriate national legislation to prevent and punish illegal traffic, an adequate legal basis at the domestic level needs to be in place to give full effect to all aspects of Article 9.

2.2. Determining the applicability of paragraphs 2, 3 or 4 of Article 9

20. The starting point for implementing the provisions of the Basel Convention dealing with the obligations in cases of illegal traffic is the detection of a particular shipment whose transboundary movement may amount to illegal traffic, as well as of the location of that shipment. The determination of whether there is an instance of illegal traffic that may lead to implementing paragraphs 2, 3 or 4 of Article 9 requires a three-step approach: to determine (1) whether the case falls within the scope of the Convention; (2) whether there appears to be a case of illegal traffic; and (3) whose conduct resulted in the illegal traffic. This section of the guidance will also look in more detail into the actors involved in making such a determination.

2.2.1. Steps for determining whether paragraph 2, 3 or 4 of Article 9 of the Convention applies

2.2.1.1. Determination that the case falls within the scope of the Convention

21. The Parties concerned must determine that:
 - (a) The content of the shipment falls within the definition of “wastes”;²⁰
 - (b) The wastes in question are “hazardous”²¹ wastes or “other” wastes;²²
 - (c) A “transboundary movement”²³ has taken place (this determination will involve identifying the State of export, the State of import and any transit State).
22. Determining these elements will require the involvement and cooperation of the competent authorities of the States of import and export, and if any, the State(s) of transit. Available guidance outlining the obligations of Parties in this regard includes the previously mentioned leaflet on *Controlling Transboundary Movement of Hazardous Wastes*,²⁴ the *Guide to the Control System* (aimed at the private sector)²⁵ and, more generally, the *Manual for the Implementation of the Basel Convention*.²⁶

¹⁹ Paragraph 5 of Article 9 of the Basel Convention.

²⁰ For the purpose of the Convention, “wastes” are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law (paragraph 1 of Article 2). In order to assist Parties in distinguishing a “waste” from a “non-waste”, the Conference of the Parties adopted by decision BC-13/[...] a Glossary of terms ([http://www\[...\]](http://www[...])).

²¹ “The following wastes that are subject to transboundary movement shall be “hazardous wastes” for the purposes of this Convention: (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.” (paragraph 1 of Article 1). Annex I is further elaborated upon in Annexes VIII and IX of the Convention.

²² “Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be “other wastes” for the purpose of the Convention. (paragraph 2 of Article 1). Annex II lists: wastes collected from households and residues arising from the incineration of household wastes.

²³ For the purpose of the Convention, a transboundary movement means any movement of hazardous or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement (paragraph 3 of Article 2).

²⁴ This publication, developed by the ICC, is available at:
<http://www.basel.int/TheConvention/Publications/BrochuresLeaflets/tabid/2365/Default.aspx>.

²⁵ This manual is available at:
<http://www.basel.int/TheConvention/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

²⁶ This publication is available at:
<http://www.basel.int/TheConvention/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

23. When determining whether the case falls within the scope of the Convention, one must bear in mind that the national legal framework may provide for a national definition of hazardous wastes under paragraph 1 (b) of Article 1 and Article 3, or import/transit/export restrictions and prohibitions under paragraph 1 (a) of Article 4 and paragraph 2 of Article 13. Such national specificities must be notified to all Parties through the Secretariat which maintains a collection of the notifications on its website.²⁷ If properly notified under the Convention, these national specificities must be respected as they will affect the determination of whether a transboundary movement of hazardous or other wastes falls within the scope of the Basel Convention. It should also be noted, and this must be kept in mind in assessing what is a case of “illegal traffic”, that paragraph 5 of Article 6 provides for different responsibilities for the transboundary movement where the waste is only considered hazardous by one of the Parties to the transaction.
24. Paragraph 5 of Article 6 may come into play for instance in the following cases:
- (a) A Party may, on the basis of paragraph 1 (b) of Article 1 of the Convention, also classify other wastes than those listed in Annexes I and II of the Convention as hazardous wastes in accordance with its national legislation; or
 - (b) The competent authorities may disagree on whether a certain waste possesses any of the hazardous characteristics referred to in Annex III of the Convention.²⁸
25. In such cases, paragraph 5 of Article 6 must be consulted to see with respect to the particular movement which Party or actor has the responsibility in the context of the particular transboundary movement.
26. Paragraph 5 (a) of Article 6 provides that in case a transboundary movement of wastes is legally defined as or considered to be hazardous wastes only by the State of export, the requirements of paragraph 9 of Article 6 that apply to the importer or disposer and the State of import shall apply *mutatis mutandis* to the exporter and State of export, respectively. This means that the exporter, rather than the disposer, must inform the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall notify the State of import.²⁹
27. Paragraph 5 (b) of Article 6 provides that in case a transboundary movement of wastes is legally defined as or considered to be hazardous wastes only by the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of Article 6 that apply to the exporter and State of export shall apply *mutatis mutandis* to the importer or disposer and State of import, respectively. This means that in such a case:
- (a) The importer or disposer, or the State of import shall be required to notify, in writing, the States of transit and/or import of the proposed transboundary movement of hazardous wastes or other wastes;
 - (b) The movement shall not be allowed to commence until the notifier has received the written consent from the State of import and the written consent from the State of transit or its tacit consent pursuant to paragraph 4 of Article 6, and the notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.
28. Finally, paragraph 5 (c) of Article 6 specifies that in case a transboundary movement of wastes is legally defined as or considered to be hazardous wastes only by any State of transit which is a Party, the provisions of paragraph 4 of Article 6 shall apply to such State. This means that, the transboundary movement can only commence after the State of transit has provided written consent to the movement or, in case the State

²⁷ <http://www.basel.int/Countries/NationalDefinitions/tabid/1480/Default.aspx>; and <http://www.basel.int/Countries/ImportExportRestrictions/tabid/1481/Default.aspx>.

²⁸ See paragraph 29 of the Guide to the control system and pages 16/17 of the Manual for the implementation of the Basel Convention, adopted at the twelfth meeting of the Conference of the Parties. Both documents are available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>. See also paragraph 42 of the Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, available in document UNEP/CHW.12/5/Add.1/Rev.1 at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventMo dID/8051/EventID/542/xmid/13027/Default.aspx>

²⁹ See paragraph 32 of the Guide to the control system, available at: <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>

of transit does not require prior written consent, after 60 days following the receipt by the State of transit of a given notification, provided that the State of transit has not objected to the transboundary movement within that time period. The Convention does not define the procedures that should be applied to notify the State of transit in such a situation. For practical reasons, it is recommended that the exporter or State of export, through negotiations or by other means make arrangements to notify the competent authority of the State of transit in accordance with paragraph 4 of Article 6.

29. In case of disagreement between States on the classification of the shipment as waste or non-waste, or on the classification of the waste as hazardous or not, the Convention does not resolve this specific situation. However, paragraph 4 of Article 9 requires that where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate. Paragraph 5 of Article 9 requires Parties to cooperate with a view to achieving the objects of the Article.
30. The European Union (EU) treats shipments involving the waste/non-waste or a disagreement about the hazardous nature of the waste by treating the shipment as if it was, respectively, waste, and hazardous or other wastes falling under the scope of the Basel Convention.³⁰
31. If, despite communication at different levels (operational and political), no agreement can be reached, the Secretariat of the Basel Convention may assist Parties upon their request in their identification of cases of illegal traffic (paragraph 1 (i) of Article 16).

2.2.1.2. Determination that there appears to be a case of illegal traffic

32. The Parties concerned must determine that at least one of the five conditions set out in paragraph 1 of Article 9, which defines “illegal traffic”, is fulfilled:
 - (a) The lack of notification may be determined by the competent authority given its central role in the implementation of the control procedure;
 - (b) The lack of consent may be determined by the competent authority given its central role in the implementation of the control procedure;
 - (c) The determination that consent was obtained through misrepresentation, fraud or falsification may require that a more thorough investigation take place;
 - (d) The lack of material conformity between documents (e.g. disposal contracts, business records, weighing slips, delivery documents, invoices and notification and movement documents) and the wastes may be established through visual inspection, but it may also require physical inspection, including sampling and analysis of the wastes; and finally,
 - (e) Deliberate disposal of the wastes took place in contravention of the Convention and general principles of international law. For relevant disposal operations, see Annex IV to the Convention.³¹
33. Existing guidance on the detection and determination of whether a shipment is deemed to be illegal traffic, including issues such as storage of the shipment and how to conduct an investigation, is available in the above mentioned *Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes*, the *Basel Convention Training Manual on Illegal Traffic for Customs and Enforcement*

³⁰ See paragraphs 1 and 2, article 28 of the Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on Shipments of Waste: “1. If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the subject matter shall be treated as if it were waste. This shall be without prejudice to the right of the country of destination to deal with the shipped material in accordance with its national legislation, following arrival of the shipped material and where such legislation is in accordance with Community or international law. 2. If the competent authorities of dispatch and of destination cannot agree on the classification of the notified waste as being listed in Annex III, IIIA, IIIB or IV, the waste shall be regarded as listed in Annex IV.”

³¹ For the purpose of the Convention, “disposal” means any operation specified in Annex IV to the Basel Convention (paragraph 4 of Article 2). In order to assist Parties in understanding which operations are covered by the term “disposal” under the Convention, the Conference of the Parties adopted by decision BC-13/[...] a Glossary of terms ([http://www\[...\]](http://www[...])).

Agencies, and the Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes.

2.2.1.3. Determination of whose conduct resulted in the illegal traffic

34. To activate paragraph 2, 3 or 4 of Article 9, the Parties concerned must determine, as appropriate:
 - (a) Who is the generator or exporter of the waste and whether the illegal traffic is the result of his/her conduct (paragraph 2 of Article 9);
 - (b) Who is the importer or disposer of the waste and whether the illegal traffic is the result of his/her conduct (paragraph 3 of Article 9);
 - (c) Who is the generator, exporter, importer or disposer of the waste and that the responsibility for the illegal traffic cannot be assigned to either of them (paragraph 4 of Article 9).
35. These determinations will need to be based on the gathering of evidence from the movement document or, if unavailable, from a more thorough investigation. This investigation will likely require international cooperation given that some of the stakeholders whose responsibility must be assessed may not be located within the jurisdiction of the State making the determination. It is also important for the purpose of Article 9 that the responsibility of all stakeholders – exporter, generator, importer and disposer – be investigated.
36. Documents that may be used to identify and determine whether the illegal traffic is the result of the conduct of the exporter, generator, importer or disposer of the wastes in the absence of a movement document include for instance contracts, invoices, agreements with suppliers to guarantee shipment quality, and transport documents. The investigation may also take into account additional sources of information (money flows, laboratory reports), including from relevant intermediaries (e.g. transporter, broker).
37. Identifying waste brokers and enforcing legal measures against them can be particularly difficult. Because waste brokers are not in possession of the wastes they trade and often operate from offshore, they may escape national legislative control. It is suggested that Parties include provision in their national legislation to ensure that regulatory and enforcement measures appropriately cover the case of waste brokers. For instance, national legislation may provide that in cases where the responsibility of the broker cannot be established or the broker fails to fulfill his obligations, the costs to cover the take-back, if applicable, and the environmentally sound disposal of the wastes can be imposed on other actors involved in the illegal traffic, such as the waste producer or the person who authorized the broker to act on his behalf.³²
38. In determining the responsibilities for the illegal traffic, compliance with the relevant Party obligations and stakeholder requirements, as appropriate, will need to be analyzed in order to assess the conduct of all involved. In doing so, it is worthwhile recalling that paragraph 5 of Article 6 shifts the obligations set out in paragraphs 1, 3, 4, 6 and 9 of Article 6 in instances where the wastes are only considered hazardous wastes by one of the Parties concerned.
39. The guidance in paragraphs 6 and 7 of the present guidance above may equally assist Parties in determining whose conduct resulted in the illegal traffic.

³² Under European Union legislation, for example, the competent authority is entitled to direct its investigations towards the original producer, the licensed new producer or the licensed collector, if no notification document had been issued for the illegal traffic. If the competent authority is in possession of a notification form and thus knows the name of the broker or dealer, but the broker or dealer fails to fulfill its obligation to dispose of the wastes in an environmentally sound manner, the subsidiary obligation falls on the person who authorized the broker or dealer to act on its behalf. See Article 2 (15) (a) of Regulation (EC) No. 1013/2006.

2.2.2. Actors involved in determining whether paragraph 2, 3 or 4 of Article 9 of the Convention applies

2.2.2.1. Actors at the national level

40. The process of determining whether a transboundary movement of hazardous wastes or other wastes falls within the scope of paragraph 2, 3 or 4 of Article 9, i.e. that the movement is deemed to be illegal traffic as the result of conduct on the part of the exporter, generator, importer or disposer, may fall under the competence of a variety of entities having responsibilities at the national level for the detection and determination of an instance of illegal traffic. As proper and rapid information exchange and coordination of efforts are essential, it is recommended to establish and use a cooperation mechanism at the national level, e.g. an interagency task force. Such a mechanism may be established formally or informally. Cooperation with and awareness-raising among the private sector stakeholders (e.g. generator, exporter, carrier, importer, disposer, brokers, shipping lines, agents storing wastes) may also facilitate the determination of whether there is an instance of illegal traffic and whose responsibility it is. Such cooperation and awareness-raising may also help to prevent illegal traffic from occurring in the first place.
41. Whatever the domestic institutional framework, it is important that each entity's role and responsibility be clear and known. Given that the Basel Convention assigns to the competent authority the responsibility for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, it is important to ensure that the relevant competent authority be adequately involved in the national process of determining whether a transboundary movement of hazardous or other wastes falls within the scope of paragraph 2, 3 or 4 of Article 9.

2.2.2.2. Actors at the international level

42. The determination of a case of illegal traffic may also require cooperation between the State of transit or State of import and the State of export. Proper communication channels at the international level are thus equally important. As previously stated, given the responsibilities assigned to the competent authority under the Basel Convention, it is important to ensure that the relevant competent authority be adequately involved in the international process of determining whether a transboundary movement of hazardous or other wastes falls within the scope of paragraph 2, 3 or 4 of Article 9.
43. The list of competent authorities and their contact information as transmitted to the Secretariat by Parties is available on the website of the Convention.³³ In the event a competent authority may not be contacted, it may be possible to contact a State through the focal point or, if needed, through diplomatic channels (e.g. Ministry of Foreign Affairs, embassy or permanent mission). In such instances, it is recommended to ensure a copy of the communication is nonetheless sent to the competent authority.
44. In line with the Convention, and as previously mentioned, Parties may also contact the Secretariat of the Basel Convention who has the mandate to assist Parties upon request in their identification of cases of illegal traffic.³⁴
45. Once the Parties concerned conclude that there is a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic they should then determine, which of paragraph 2, 3 or 4 of Article 9 applies. If the illegal traffic is a result of the conduct on the part of the exporter or generator, the provision embedded in paragraph 2 of Article 9 may be activated. Once the Parties concerned have concluded that there is a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as a result of the conduct on the part of the importer or disposer, the provision embedded in paragraph 3 of Article 9 applies. Finally, once the Parties concerned or other Parties have concluded that there is a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic and that responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the provision embedded in paragraph 4 of Article 9 applies.

3. States and entities involved in implementing the requirements set out in paragraphs 2, 3 and 4 of Article 9

3.1. States involved

3.1.1. Parties

³³ <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>.

³⁴ Paragraph 1 (i) of Article 16.

46. Paragraphs 2, 3 and 4 of Article 9 of the Convention assign responsibilities to the “State of import”, the “State of export”, “States concerned” or “Parties concerned” and “other Parties”. The Convention defines “State of import”, “State of export” and “States concerned” in its Article 2. In particular, “States concerned” means Parties which are States of export or import, or transit States whether or not Parties. The terms “other Parties” is understood as referring to Parties other than the “Parties concerned”, namely Parties that are neither State of export, State of import nor State of transit.

3.1.1.1. Paragraph 2 of Article 9

47. The Basel Convention provides that, when the conditions set out in paragraph 2 of Article 9 are met, namely that a transboundary movement of hazardous wastes or other wastes is deemed to be illegal traffic as 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, by itself into the State of export, or, if impracticable;
 - (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.”
48. The State of export therefore has primary responsibility for complying with the take-back procedure, as set out in paragraph 2 (a) of Article 9, or, if impracticable, otherwise disposing of the wastes in accordance with the provisions of this Convention, within the time period specified in paragraph 2 of Article 9.
49. The actions mandated by paragraph 2 of Article 9 will involve at least one other State, and possibly several other States. The illegal shipment may be detected in a State of import or in a transit State. The Convention does not expressly specify the role of those States, besides the general obligation of all “States concerned” to cooperate with one another. As a consequence, the Party that is a State of import as well as any transit State, regardless of whether it is a Party to the Convention or not, may have a role to play to achieve the take-back of the wastes or, if impracticable, its disposal in accordance with the provisions of the Convention.
50. In practical terms, one must emphasize that sending back illegally trafficked wastes without informing and/or without the involvement of the competent authorities of the State of export and any State(s) of transit may lead to improper take-back or even lead to another (illegal) destination of the waste not being within the State of export – for example when the waste is illegally shipped further on to another State outside the view of the competent authorities. It is thus essential that any State of import or transit concerned by an illegal shipment make all efforts to ensure that the State of export and State of transit is informed and that the State of export takes on its responsibility for the take-back of the wastes. In this regard, paragraph 2 of Article 9 provides that the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the States of export.

3.1.1.2. Paragraph 3 of Article 9

51. Under paragraph 3 of Article 9, where a transboundary movement of hazardous wastes or other wastes is deemed to be illegal traffic as result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree.
52. Accordingly, the primary responsibility to ensure that the wastes in question are disposed of in an environmentally sound manner lies with the State of import. The State of import may involve the importer or disposer in making arrangements for such disposal of the wastes in question, depending on the situation of such stakeholders and any national requirements in place.
53. Implementing the obligations set out in paragraph 3 of Article 9 may involve two or several States, for example, if the illegal shipment is detected in a transit State. In this regard, paragraph 3 of Article 9 specifies that the Parties concerned shall cooperate, as necessary, in the disposal of the wastes.

3.1.1.3. Paragraph 4 of Article 9

54. In cases where the responsibility for the illegal traffic cannot be assigned to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall cooperate to ensure the disposal of the wastes as soon as possible in an environmentally sound manner, as set out in paragraph 4 of

Article 9.³⁵ The Convention does not further define the respective roles of the different States involved in the transboundary movement.

3.1.2. Non-Party States

55. The Convention prohibits Parties from permitting hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party³⁶ unless the Party has entered into an agreement or arrangement with the non-Party pursuant to Article 11.
56. In its Article 11, the Convention allows Parties to permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party if such Parties enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes, and provided that such agreements or arrangements do not derogate from the ESM of hazardous wastes and other wastes as required by this Convention. A list of such agreements that have been notified to the Secretariat is available on the website of the Convention.³⁷ Such agreements may provide for the non-Party State of export or the non-Party State of import to take on the responsibilities assigned to the State of export or the State of import, respectively, under paragraphs 2, 3 and 4 of Article 9, but in any case, all such agreements or arrangements shall not derogate from the ESM of hazardous wastes and other wastes as required by the Convention.³⁸
57. If there is no such agreement or arrangement, a State of export or State of import that is not a Party to the Convention will not be under the obligation to implement the take-back or ESM provisions of the Convention, nor will the Party to the Convention be under any reciprocal obligation to the non-Party. In such instances, it is advised that the relevant States cooperate with a view to finding a mutually convenient solution. The only exception to this situation would be in the case of a non-Party State of transit as Parties to the Convention have the obligation under Article 7 to notify in writing, or respectively to require the generator or exporter to notify in writing, such States of a proposed transit transboundary movement.

3.2. Entities involved

58. The Basel Convention does not specify which entity within the States concerned will, in practice, implement the obligations set out in paragraphs 2, 3 and 4 of Article 9. It was noted above that the detection and investigation of a possible case of illegal traffic may involve a variety of entities at the national level (e.g. port authorities, customs, police, environmental institutions/organizations/agencies/authorities, justice and prosecutors' offices). Given the responsibilities assigned to the competent authority under the Basel Convention, it should be ensured that the relevant competent authorities are adequately involved in the international process of determining whether a transboundary movement of hazardous or other wastes falls within the scope of paragraph 2, 3 or 4 of Article 9.
59. For similar reasons, the competent authorities in the States concerned should equally be given the primary responsibility for implementing the obligations set out in paragraphs 2, 3 and 4 of Article 9. As a consequence, the relevant competent authority of the State of export and the relevant competent authority of the Party that is a State of import or that of any transit State, in which the wastes are located, should be given the responsibility to operationalize these obligations in close cooperation with the entity that detected the illegally trafficked waste.
60. In addition, because the illegal traffic may be deemed to be as a result of the conduct of the exporter or generator, or importer or disposer, these actors, including their possible interactions with one another will, as appropriate, be involved.

3.3. Initial contact and immediate measures

³⁵ See Appendix 5.

³⁶ Paragraph 5 of Article 4 of the Basel Convention.

³⁷ <http://www.basel.int/Countries/Agreements/tabid/1482/Default.aspx>.

³⁸ Work on Article 11 of the Basel Convention was carried out by the Conference of the Parties between its first and seventh meetings (decisions I/9, II/10, III/1, IV/2, V/21, VI/18 and VII/36) at what time the Conference of the Parties "Agree(d) to cease work on the guidance elements for bilateral, multilateral and regional agreements or arrangements". For the latest version of that draft guidance elements for bilateral, multilateral or regional agreements or arrangements, see document UNEP/CHW.6/15.

61. Early contact between the States concerned (export, import, transit) is advised at the level of the competent authorities so as to, as applicable, facilitate a smooth take-back, ensure that the wastes in question are disposed of in an environmentally sound manner and increase the chances of success of assigning responsibility to, and taking any subsequent legal action against, those responsible for the illegal traffic.
62. Various scenarios may occur, including:
- (a) A State concerned has, prior to the commencement of the transboundary movement of the hazardous or other wastes, become aware that the shipment if allowed to proceed could become a case of illegal traffic. In line with the general obligation on all Parties to take appropriate legal, administrative and other measures to implement and enforce the provisions of the Convention, including measures to prevent and punish conduct in contravention to the Convention,³⁹ the State aware of the matter should rapidly contact the State of export for it to ensure that the illegal shipment does not leave its territory.
- (b) A State concerned has become aware of a possible case of illegal traffic subsequent to the commencement of the transboundary movement of the waste but prior to the waste reaching a State of transit or State of import. Here again, all Parties concerned have the general obligation of taking appropriate legal, administrative and other measures to implement and enforce the provisions of the Convention, including measures to prevent and punish conduct in contravention to the Convention.⁴⁰ In the event a State concerned has information about the route or destination of the wastes (or possible route and destination) the initial contact with the other States concerned should be initiated by that State.
- (c) The waste subject to a possible case of illegal traffic has reached another State (State of transit or State of import). In that case, that State should initiate contact with the State of export as soon as possible during the investigation stage.
63. This initial contact between the State(s) concerned may be a telephone conversation. However, a written communication (preferably through electronic communication like email, or through fax or letter) between the competent authorities of the States concerned is advisable so as to ensure that all States concerned are properly informed through the appropriate channels. To overcome possible language difficulties, it is recommended to use all means available, i.e. through both oral and written communication channels.
64. Such initial contact between all States concerned should be made as soon as possible, meaning immediately following awareness of or detection of the possible case of illegal traffic.
65. As illegal traffic can be detected at various points in the movement chain, safety and protective measures should be taken as soon as possible to secure the wastes in question which will protect human health and the environment. Transports of the wastes from the location of detection to a disposal facility should be done in accordance with applicable national and international requirements, e.g. on transport, packaging and labeling. If temporary storage is required while the investigation is ongoing, again, this should be done in compliance with applicable national requirements. The wastes should be stored in a way that will prevent damage to human health and the environment as a result of the escape/leaking/mixing of the waste, but also to ensure that there is no tampering with evidence. All such immediate measures should be authorized or supervised by the relevant competent authority.

4. Illegal traffic deemed to be as the result of conduct on the part of the exporter or generator (paragraph 2 of Article 9)

4.1. The take-back of the wastes

66. The Basel Convention sets out a detailed control procedure that must be complied with for transboundary movements of hazardous wastes and other wastes to take place, a so-called prior informed consent (PIC) procedure. This procedure aims at ensuring, among other things, that those States concerned by the transit or import of wastes agree to a proposed movement and that the wastes are disposed of in an environmentally sound manner in the State of import. The notification and consent procedure, as well as the use of a movement document are specific tools that operationalize the control procedure.
67. Although similar procedures are not provided for in the case of the take-back, some aspects of the control procedure as operationalized through the PIC procedure and the use of a movement document may contribute to achieving the objectives of the Convention, in particular the ESM of the wastes taken back and the punishment of conduct in contravention of the Convention. Accordingly, this guidance proposes

³⁹ Paragraph 4 of Article 4 of the Basel Convention.

⁴⁰ Paragraph 4 of Article 4 of the Basel Convention.

that relevant elements of the control procedure for transboundary movements be used when implementing the take-back provision, namely an adjusted notification document and movement document.⁴¹ The use of standard procedures would harmonize Parties' implementation of the take-back provision while achieving the objectives of the Convention.

68. In most cases, the illegal traffic concerns a transboundary movement of wastes for which there was no notification and no consent. To support a standard procedure of the take-back of the wastes in question it is suggested that two forms be used:⁴²

(a) A form for the State in which the wastes are located to request the State of export to ensure the take-back of the wastes (see appendix 1, part I);

(b) A form to be used by the exporter, generator or State of export for the notification of the take-back, bearing in mind that the specific consent of the States concerned is not required (see appendix 1, part II).

A completed movement document should accompany the shipment back to the State of export.

69. In the event the illegal traffic concerns a transboundary movement of wastes for which a notification was issued in accordance with paragraph 1 of Article 6 but no consent has been given by the competent authority in the State of import, it is suggested to use the existing notification form that was used during the initial notification procedure for the take-back. Fields 20 and 21 of the notification form should be completed with the reason(s) for objecting to the initially proposed movement.⁴³ Also in this instance a movement document under the Basel Convention should be used to accompany the shipment back to the State of export.
70. The paragraphs below provide a description of the take-back procedure in cases where the transboundary movement of wastes took place without any notification. A graphic illustration of the suggested take-back procedure is set out in appendix 2.

4.1.1. Request for the take-back

71. In this guidance document, the request for the take-back of the wastes deemed to constitute a case of illegal traffic amounts to the formal initiation of the take-back procedure by the State of transit or State of import in which the wastes are located.
72. The competent authority of the Party that is a State of import or that of any transit State in which the wastes are located will be responsible for requesting the State of export to take-back the wastes.
73. As noted above, it is expected that prior communications between the State of export and the State requesting the take-back will have taken place before the official request for wastes to be taken back is formulated. The request should be sent promptly to the State of export, which means that the steps to be taken to collect the information needed to make this request should also be taken in a timely manner. The Convention does not set any deadlines for these steps,⁴⁴ but delayed action may lead to damage to human health and the environment in the event the containers are leaking, to tampering with evidence if the shipment is not safely stored, to an increase of the costs of storage of the shipment, as well as to hampering a smooth implementation of the take-back procedure, the environmentally sound disposal of the wastes and subsequent legal proceedings against those responsible for the illegal traffic. It is therefore suggested that the request for take-back be sent within 30 days following the detection of the illegal shipment.
74. Because the request is expected to lead to the take-back of the wastes, it should set out the information that will have led to the determination, by the State making the request, that there are grounds for this procedure to be implemented. Such information includes:

41 The notification and movements documents are available at:

<http://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>

42 In the event not all the Parties (through their competent authorities) involved in the take back agree on following the approach embedded in this guidance, including the use of the suggested forms, then the Parties could use the standard procedure provided for under Article 6 with the exception of paragraph 2 and paragraph 3 (a), namely there is no need for the State of import taking back the wastes to consent to the proposed movement.

43 See paragraph 31 of the instructions for completing the notification and movement documents, available at: <http://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>

44 Some national legislation, regulations and other measures do specify a deadline for requesting the take-back of wastes in cases of illegal traffic (e.g. in the form of a statute of limitation).

- (a) The reason(s) why the shipment amounts to a deemed case of illegal traffic;
 - (b) The date and place of detection of the case of illegal traffic;
 - (c) The entities involved (generator, exporter, States, other stakeholders) where these have been identified, and information about the responsibility of each entity involved in the illegal traffic, including with respect to the costs associated with the take-back;
 - (d) List of evidence available to support the information set out in the request;
 - (e) The description of the wastes (nature and amount);
 - (f) The copy of a contract between the exporter and importer/d disposer/carrier, if available;⁴⁵
 - (g) The location of the wastes from where they will be taken back;
 - (h) Steps taken, in particular to ensure that the wastes are safely stored and cannot be tampered with;
 - (i) Steps that may need to be taken to ensure that the wastes are properly packaged and labelled in conformity with generally accepted and recognized international rules and standards;
 - (j) Costs that are expected to be incurred since the request for take-back has been received by the State of export (storage, packaging, labeling).
75. Parties are advised to use part I – Request for the take-back – of the form attached in appendix 1.
76. When the request is sent to the competent authority of the State of export, it is advised to provide at that time some evidence that a case of illegal traffic is deemed to have taken place. Such evidence can be pictures of the waste, copies of documents (receipts, labels, contracts, shipping documents, notification document if available, movement document if available, written statements made during the investigation, record of visual inspection), or results of laboratory analyses of the content of the illegal shipment. These types of evidence are also considered useful during the initial contact; in other words, the step before completing and sending the form for the take-back request.
77. Competent authorities from the involved States should keep in mind that any evidence collected during the investigation could be used in court action(s) related to the illegal traffic. Competent authorities are therefore strongly encouraged to ensure that robust evidence is prepared and documented and to collaborate in sharing their evidence within the existing legal frameworks (for example via mutual legal assistance procedures) upon request.
78. It may be helpful to use the form for confirmed cases of illegal traffic⁴⁶ to accompany information or evidence. Such information will also facilitate the cooperation between the relevant competent authorities. This information could also be shared by the competent authority with the relevant enforcement entities (e.g. customs, port authorities, environmental inspectors, police and prosecutors) within its country. It may also be that such evidence could be of use to the administrative or enforcement authorities in the State of export in order to conduct proceedings against those responsible for the illegal traffic and falling within the jurisdiction of that State.
79. Following the reception of the request for the take-back, the competent authority of the State of export should promptly acknowledge its receipt with the competent authority of the requesting State. This acknowledgement should be in writing (preferably through electronic communication like email or through fax or letter) and its date included in the form requesting the take-back. After its competent authority has reviewed the request, the State of export should confirm its intention to ensure that the wastes are taken back, or if the request is not complete or unclear, seek further information or clarification. In the event the competent authority of the State of export considers that the take back would be impracticable, it should inform the competent authority of the requesting State simultaneously to acknowledging receipt of the request for take back.

45 A contractual arrangement between the carrier (shipping/transport company) and the exporter or between the importer or disposer and the exporter may include information of relevance to the determination of a case of illegal traffic. It may also provide for an avenue for managing illegal shipments in addition to the take-back procedure. In particular, the contract with the carrier may provide for the illegal shipment to be covered by a financial guarantee which may be used to cover the costs of storage, the costs of transport, as well as the costs of recovery or disposal, including any necessary interim operation.

46 This form is available at:
<http://www.basel.int/Procedures/ReportingonIllegalTraffic/tabid/1544/Default.aspx>.

80. The 30-day deadline set out in paragraph 2 of Article 9 (or such other period of time as the States concerned may agree upon) for the wastes in question to be taken back runs from the date of receipt of this request by the State of export.

4.1.2. Notification of the take-back

81. After the State of export has acknowledged receipt of the request for take-back, arrangements for the take-back would follow. Although the Basel Convention is silent on this point, best practice suggests that the request for take-back should be followed by a notification of the take-back of the wastes in question, unless all the involved competent authorities agree that this is not necessary, e.g. in case a duly motivated request is made by the competent authority of the initial State of export.
82. The following provisions of the Basel Convention should apply *mutatis mutandis* to the notification of the take-back:
- (a) Paragraph 1 of Article 6, pertaining to the notification by the State of export;
 - (b) Paragraph 3 (b) of Article 6, pertaining to the confirmation of a contract specifying ESM of the wastes taken back.
83. Because the take-back is, ultimately, the responsibility of the State of export, it will be up to the State of export of the illegally trafficked wastes to organize the take-back and to notify, or to require the generator or exporter to notify, the State(s) concerned accordingly.
84. It is advised that part II – Notification of take-back – of the form attached in appendix 1 be used, which is a modified version of the notification document for transboundary movements of hazardous wastes with one difference: no written consent to the take-back is required. To reflect this fundamental difference with the standard notification document, the form for the Notification of take-back:
- (a) Omits box 20 (written consent of the movement);
 - (b) Omits box 21 (specific conditions on consenting to the movement document or reasons for objecting).
- Another difference concerns box 3, where the option for take-back has been added. It is also noted that it may be possible that some boxes of the notification document cannot be filled in, e.g. the waste generator may not be known.
85. In addition to the information usually set out in the notification document for transboundary movements, the form should set out information on the timeline for the take-back. As noted above, the Convention provides for a 30 day deadline (or such other period of time as States concerned may agree) for the wastes in question to be taken back, and the suggestion is that this deadline will run upon receipt by the State of export of a completed request to take-back the wastes.
86. Because the Convention provides in paragraph 2 of Article 9 that “the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export”, the suggestion is that all Parties have already agreed to consent that illegal shipments of wastes transit through them and that, accordingly, the specific consent of the State(s) concerned (State in which the wastes are located and State of transit if any) not be required before the transboundary movement commences.
87. The take-back should start after the competent authorities concerned have acknowledged the receipt of the notification.
88. A movement document should accompany the wastes and the provisions of paragraph 9 of Article 6 should apply *mutatis mutandis*. The responsibility for ensuring the completion of the movement document would be entrusted to the State of export, which would then send it to the State in which the wastes are located for further use during the take-back.
89. At any time, Parties may, in line with paragraph 1 (i) of Article 16 of the Basel Convention, request the assistance of the Secretariat in their identification of cases of illegal traffic.

4.1.3. Costs related to the take-back

90. Although the Convention is silent on this point, costs related to the take-back (packaging and labeling, transport and disposal) should be borne by the exporter or generator, based on their responsibility, or, if necessary, by the State of export. It would seem appropriate that costs of storage incurred from the date on which the State of export has been properly notified of the illegal shipment should also be borne by the exporter, generator or, if necessary, by the State of export. Authority to claim these and other costs generated by the illegal traffic (e.g. storage prior to notification, investigation) should be specified in the

national legal framework of the States concerned and dealt with in the context of existing administrative, civil or criminal procedures established within legislation to prevent and punish illegal traffic.

91. Paragraph 11 of Article 6 of the Convention provides that:
92. “Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or guarantee as may be required by the State of import or any State of transit which is a Party.”⁴⁷
93. While the results of a questionnaire conducted by the Committee in the 2014-2015 biennium revealed that Parties were implementing paragraph 11 of Article 6 in a variety of ways due to differing interpretations, some Parties have implemented this provision by requiring a financial guarantee cover certain costs of take-back. In cases where the illegal shipment was covered by a financial guarantee, this guarantee may be used to cover the costs of storage, the costs of transport, as well as the costs of disposal, including any necessary interim operation, depending on the provisions of the relevant national legal frameworks.⁴⁸
94. However, for the most part, wastes are illegally trafficked without notification to the involved competent authorities and thus no insurance, bond or other guarantee (hereafter referred to as financial guarantee) is in place. Some Parties have enacted legislation requiring that in case of a take-back of illegally trafficked wastes a new financial guarantee be contracted to cover the risks of the take-back operation.⁴⁹ In the absence of such a general legal requirement to cover the take-back of the wastes by a financial guarantee embedded in the national legal frameworks of the States concerned, the involved competent authorities may, provided that they have the discretion to do so under national law, decide and agree on a case-by-case basis on whether the take-back of illegally trafficked waste is to be covered by a financial guarantee or not. The financial guarantee could, for instance, serve to cover the costs of storage and/or alternative disposal in case the take-back operation is delayed or cannot be completed as intended.

4.2. In case take-back is impracticable

4.2.1. The disposal of the wastes

95. Paragraph 2 (b) of Article 9 provides that in case the take-back of the illegal shipment is “impracticable”, the State of export shall ensure that the wastes in question are “otherwise disposed of in accordance with the provisions of the Basel Convention”.
96. Examples of situations where a take-back is impracticable include:
 - (a) The State of export does not have an adequate facility to dispose of the wastes in question;
 - (b) Risks of transport during take-back are high due to damaged or affected packaging, or due to the fact that the wastes have become unstable;
 - (c) Cases where the State of import, or the State of transit in which the wastes are located, is a non-Party and is unwilling to cooperate in the take-back.
97. The best outcome may be for the State of export to cooperate with the State of import to ensure the wastes are disposed of in an environmentally sound manner within the State of import. Alternative arrangements for disposal of the wastes within another State would also be viable, as long as the waste is disposed of in an environmentally sound manner and all concerned States agree to the solution.

⁴⁷ See Guidance to improve the implementation of paragraph 11 of Article 6 of the Convention developed by the Committee Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention and adopted by the Conference of the Parties by decision BC-13/[...] ([https://www.\[...\]](https://www.[...])).

⁴⁸ This is the case in the European Union. Article 6 of the Regulation (EC) No. 1013/2006 on the shipment of wastes provides that all shipments of waste for which a notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance covering: (a) costs of transport; (b) costs of recovery or disposal, including any necessary interim operation; and (c) costs of storage for 90 days. The financial guarantee or equivalent insurance is intended to cover costs arising in the context of: (a) cases where the shipment or the recovery or disposal cannot be completed as intended; and (b) cases where a shipment or the recovery or disposal is illegal.

⁴⁹ This is the case in the European Union. Article 24 of Regulation (EC) No.1013/2006 requires that the take-back be covered by a new financial guarantee or equivalent, unless the initial competent authority of dispatch acts itself as the notifier. If the illegal shipment was covered by a financial guarantee, which could be used to meet the expenses, the competent authority may reduce the amount of the new financial guarantee, as appropriate.

98. In the event it would be best for the wastes to be disposed of in another State, the PIC procedure, as described in Article 6 of the Convention, applies, with the original Party of import now constituting the Party of export. As it is the State of export's responsibility to take all the steps necessary towards this goal, the State of export of the illegally trafficked wastes would be responsible for complying with the obligations of the State of export as set out in Article 6 of the Convention, even though the wastes are located in a different State. A graphic illustration in case take-back of the wastes is considered impracticable is set out in appendix 4.

4.2.2. Costs related to the disposal of the wastes

99. Although the Convention is silent on this point, costs related to the disposal should be borne by the exporter or generator, based on their responsibility, or, if necessary, by the State of export. It would seem appropriate that costs of storage incurred from the date on which the State of export has been properly notified of the illegal shipment should also be borne by the exporter, generator or, if necessary, by the State of export. Authority to claim these and other costs generated by the illegal traffic (e.g. storage prior to notification, investigation) should be specified in the national legal framework of the States concerned and dealt with in the context of existing administrative, civil or criminal procedures established within legislation to prevent and punish illegal traffic.
100. In case the illegal shipment was covered by a financial guarantee pursuant to paragraph 11 of Article 6 of the Convention, this guarantee may be used to cover the costs of storage, the costs of transport, as well as the costs of disposal, including any necessary interim operation, depending on the provisions of the relevant national legal frameworks.⁵⁰
101. However, for the most part, wastes are illegally trafficked without notification to the involved competent authorities and thus no financial guarantee is in place. If the disposal of the wastes involves a new transboundary movement to a third state, national legislation of the States concerned by the transboundary movement may require that a new financial guarantee be contracted. In the absence of a legal requirement to cover the transboundary movement of the wastes by a financial guarantee embedded in the national legal frameworks of the States concerned, the involved competent authorities may, provided that they have the discretion to do so under national law, decide and agree on a case-by-case basis on whether the transboundary movement is to be covered by a financial guarantee or not. Such a financial guarantee could, for instance, serve to cover the costs of storage and/or alternative disposal in case the transboundary movement is delayed or cannot be completed as intended.

4.3. Action to be taken following the take-back or disposal of the wastes

102. Communication between the relevant competent authorities of the States concerned should continue until it is confirmed that the wastes have been disposed of in an environmentally sound manner, in accordance with paragraph 9 of Article 6 of the Convention. In case the wastes are taken back, the competent authorities of the State(s) concerned are advised to monitor the take-back of the wastes in question to ensure that they arrive in the State of export. The State of export, through its competent authority, should confirm to the States concerned by the illegal traffic reception of the wastes in its country and, in due course, of the completion of disposal as specified in the notification.
103. In case the take back of the wastes is impracticable and the wastes are disposed of in the State of location of the wastes at discovery of the illegal traffic, that State should confirm to the States concerned by the illegal traffic of the completion of disposal in an environmentally sound manner in accordance with the objectives of paragraph 9 of Article 6 of the Convention. If the wastes are disposed of in another State, it is advised that the new disposer confirm the completion of environmentally sound disposal to both the initial State of export, which is responsible for complying with the obligations of Article 6 of the Convention regarding the new transboundary movement, and the new State of export, where the wastes were located at discovery of the illegal traffic.
104. It is also advisable that the States concerned cooperate with regards to subsequent legal proceedings against all relevant stakeholders, so as to ensure that Parties punish conduct in contravention of the Convention, as required by the Convention. Guidance on the prosecution of cases of illegal traffic is set out in the *Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes*.⁵¹

⁵⁰ See Guidance to improve the implementation of paragraph 11 of Article 6 of the Convention developed by the Committee Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention and adopted by the Conference of the Parties by decision BC-13/[...] ([https://www.\[...\]](https://www.[...])).

⁵¹ Approved by decision BC-10/18 of the tenth meeting of the Conference of the Parties. The Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes is available at:

105. The competent authority is also invited to communicate to the Basel Convention Secretariat and with other Parties and stakeholders its experiences and lessons learned. In due course, the form for confirmed cases of illegal traffic⁵² should also be communicated to the Secretariat.

5. Illegal traffic deemed to be as a result of conduct on the part of the importer or disposer (paragraph 3 of Article 9)

106. If the illegal traffic is the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time the States concerned may agree. It is important to recall that in order to implement this provision the State of import should have enacted laws or regulations reflecting it at the national level.⁵³ National frameworks, including legal frameworks, could even go as far as defining procedural issues with respect to identification of the nature of the wastes, communication with other States concerned and coordination between the entities (e.g. competent authority, Customs, port authorities, environmental inspectors, police and prosecutors) and the stakeholders (generator, exporter, importer or disposer) involved. National legal frameworks may also specify actions to be taken in case of non-compliance by the importer or disposer, for example the possibility for enforcement entities to serve notices requiring a person or legal entity to act in accordance with paragraph 3 of Article 9 of the Convention within a specific time. Failing to comply with such a notice, could be an offence in itself.⁵⁴

5.1. The disposal of the wastes by the importer or disposer, or State of import

107. As set out in paragraph 3 of Article 9, it is the responsibility of the State of import to ensure that the wastes that were deemed illegal traffic on the part of the importer or disposer are disposed of in an environmentally sound manner by the importer or disposer, or if necessary, by itself. This latter situation could be the case for example when the importer or disposer cannot be identified, went bankrupt or refuses to take responsibility and it is not possible within the national context to force action in a timely manner.
108. Paragraph 3 of Article 9 does not specify where this disposal needs to take place. The State of import should take into account the proximity principle and whether the best solution would be to dispose of the wastes as close as possible to where they are located when the case of illegal traffic is established. If the wastes are located in the State of import, disposal of the wastes in the State of import should be preferred.
109. However, where the State of import does not have the capacity to deal with the wastes concerned, alternative destinations outside the State should be considered.⁵⁵ In this event, the PIC procedure as described in Article 6 of the Convention applies.⁵⁶ If the original importer or disposer takes charge of the disposal, the notifier would be the original importer or disposer of the wastes and the original State of import would become the new State of export. If it is not possible to force action on the importer or disposer, the duty to notify the transboundary movement lies with the original State of import.

<http://www.basel.int/TheConvention/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

52 This form is available at:

<http://www.basel.int/Procedures/ReportingonIllegalTraffic/tabid/1544/Default.aspx>.

53 Based on the 52 responses received from Parties to the questionnaire on the implementation of paragraphs 3 and 4 of Article 9 of the Convention, 19 Parties had not done so while 32 had. (See:

<http://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities201617/IllegalTraffic/tabid/4581/Default.aspx>). In countries with a monist legal system that consider these provisions to be self-executing, paragraphs 3 and 4 of Article 9 of the Convention would be directly applicable at the national level. This can mean that such States would not need to rely on implementing legislation to enforce paragraphs 3 and 4 of Article 9 of the Convention.

54 For an example of a national regulation that has laid down these enforcement powers, see:

http://www.legislation.gov.uk/uksi/2007/1711/pdfs/uksi_20071711_en.pdf

55 Some respondents to the questionnaire answered that they did not have capacity available to deal with hazardous wastes.

56 See <http://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>.

110. The Convention does not expressly specify the roles of Parties concerned other than the State of import in ensuring environmentally sound disposal of the wastes. All Parties concerned are, however, subject to a general obligation to cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner pursuant to paragraph 3 of Article 9. If the wastes are located in the State of transit when the case of illegal traffic is established, the proximity principle would suggest that the wastes be disposed of in the State of transit, provided that the State of transit has the necessary disposal capacity and agrees thereto. The original State of import would, however, continue to be responsible for ensuring that the wastes are disposed of in an environmentally sound manner, in accordance with its responsibility to take all the steps necessary to ensure environmentally sound disposal of the wastes pursuant to paragraph 3 of Article 9.

5.2. The costs related to the disposal of the wastes

111. While paragraph 3 of Article 9 imposes a general obligation on Parties concerned to cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner, it does not specifically set out their respective responsibilities in covering the costs related to the disposal of the wastes. It is suggested that the costs related to disposal (packaging and labeling, storage, transport and disposal in an environmentally sound manner) be borne by the importer or disposer, based on their responsibility, or, if necessary, by the State of import. Responsibility for these and other costs generated by the illegal traffic should be specified in the national legal framework of the States concerned and dealt with in the context of existing administrative, civil or criminal procedures to prevent and punish illegal traffic.⁵⁷ National legislation may provide that the State of import has the authority to reclaim the costs for disposal of the waste from the responsible importer or disposer.
112. In the case where the illegal shipment was covered by a financial guarantee pursuant to paragraph 11 of Article 6,⁵⁸ this guarantee may be used to cover the costs of storage, the costs of transport, as well as the costs of disposal, including any necessary interim operation, depending on the provisions of the relevant national legal frameworks.
113. However, for the most part, wastes are illegally trafficked without notification to the involved competent authorities and thus no financial guarantee is in place. If the disposal of the wastes involves a new transboundary movement, national legislation of the States concerned by the transboundary movement may require that a new financial guarantee be contracted. In the absence of a legal requirement to cover the transboundary movement of the wastes by a financial guarantee embedded in the national legal frameworks of the States concerned, the involved competent authorities may, provided that they have the discretion to do so under national law, decide and agree on a case-by-case basis on whether the transboundary movement is to be covered by a financial guarantee or not. Such a financial guarantee could, for instance, serve to cover the costs of storage and/or alternative disposal in case the transboundary movement is delayed or cannot be completed as intended.

5.3. Action to be taken following disposal of the wastes

114. Communication between the relevant competent authorities of the States concerned should continue until it is confirmed that the wastes have been disposed of in an environmentally sound manner.
115. In case the waste are disposed of in the State where they are located at discovery of the illegal traffic, that State should, as best practice, confirm to the States concerned by the illegal traffic of the completion of disposal in an environmentally sound manner, in accordance with the objective of paragraph 9 of Article 6 of the Convention.
116. In case the wastes are disposed of in another State than the State of location, because the State of location does not have the capacity to dispose of them in an environmentally sound manner, the disposer located in the new State of import will be required to inform both the new exporter and the competent authority of the

⁵⁷An example of the obligation to bear the costs can be found in Article 25 (2) of the European Waste Shipment Regulation: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1013-20160101&qid=1461588990431&from=EN>.

⁵⁸ This is the case in the European Union. Article 6 of the Regulation (EC) No. 1013/2006 on the shipment of wastes provides that all shipments of waste for which a notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance covering: (a) costs of transport; (b) costs of recovery or disposal, including any necessary interim operation; and (c) costs of storage for 90 days. The financial guarantee or equivalent insurance is intended to cover costs arising in the context of: (a) cases where the shipment or the recovery or disposal cannot be completed as intended; and (b) cases where a shipment or the recovery or disposal is illegal.

new State of export of receipt of the wastes in question and, in due course, of the completion of disposal as specified in the notification document pursuant to paragraph 9 of Article 6 of the Convention. It is suggested that after reception of the confirmation of disposal, the new State of export confirm the disposal of the wastes to all other Parties initially concerned by the illegal traffic, in particular, if the wastes were disposed of in a third State that was not a State concerned by the illegal traffic.

117. It is further advisable that the States concerned cooperate with regards to subsequent legal proceedings against all relevant stakeholders, so as to ensure that Parties punish conduct in contravention of the Convention, as required by the Convention. Guidance on the prosecution of cases of illegal traffic is set out in the Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes.⁵⁹
118. The competent authority is also invited to communicate to the Basel Convention Secretariat and with other Parties and stakeholders its experiences and lessons learned. In due course, the form for confirmed cases of illegal traffic⁶⁰ should also be communicated to the Secretariat.

6. Where responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9)

119. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure through cooperation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate, in accordance with paragraph 4 of Article 9. Appendix 6 provides a graphic illustration of the implementation of the duty to cooperate where the responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9). Appendix 7 includes a case study of the implementation of the duty to cooperate where the responsibility for the illegal traffic could not be assigned (paragraph 4 of Article 9).

6.1. The disposal of the wastes

120. The responsibility to dispose of the wastes in accordance with the provisions of the Basel Convention belongs to the “Parties concerned” or “other Parties”, as appropriate. The “Parties concerned” include the State of import, any State of transit and the State of export. “Other Parties” refers to Parties other than those. Through cooperation, Parties shall ensure that the wastes in question are disposed of as soon as possible in an environmentally sound manner.
121. Paragraph 4 of Article 9 of the Convention does not provide specific guidance on where the wastes should be disposed. The wording of the provision suggests, however, that the primary responsibility for the disposal lies with the Parties concerned. Other provisions of the Convention, in particular the general obligations enshrined in its Article 4, are also of relevance to guide the process for identifying the location of the disposal. Accordingly, priority should be given to identifying adequate capacity for ESM of the wastes in the State where the wastes are located.
122. As specified in paragraph 4 of Article 9, the disposal of the wastes may also involve other States than the Parties concerned, for example, if none of the Parties concerned has the capacity to dispose of the wastes in an environmentally sound manner. In this regard, paragraph 4 of Article 9 specifies that “other Parties” shall, as appropriate, cooperate to ensure environmentally sound disposal of the wastes. Here again, the principle of proximity enshrined in Article 4 would suggest that the wastes be disposed of as close as possible to the place where they are located. In case a transboundary movement is to take place, the relevant Basel Convention provisions apply. The State of location of the wastes (previously the State of import or State of transit) becomes the new State of export and will be required to notify the transboundary movement pursuant to Article 6 of the Convention.
123. The case study included in appendix 5 provides a practical example of cooperation between the State of export and the respective States of import in ensuring environmentally sound disposal of illegal shipments of hazardous wastes where the responsibility for the illegal traffic could not be assigned.

⁵⁹ Approved by decision BC-10/18 of the tenth meeting of the Conference of the Parties. The Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes is available at: <http://www.basel.int/TheConvention/Publications/GuidanceManuals/tabid/2364/Default.aspx>.

⁶⁰ This form is available at: <http://www.basel.int/Procedures/ReportingonIllegalTraffic/tabid/1544/Default.aspx>.

6.2. The costs related to the disposal of the wastes

124. The Convention is silent on who should bear the costs related to disposal (packaging and labeling, storage, transport and disposal in an environmentally sound manner). Responsibility for such costs can be specified in the national legal framework of the States involved, but if not, or if their provisions are not mutually compatible, the States concerned or other States will need to find a mutually agreeable arrangement.
125. In case the illegal shipment was covered by a financial guarantee pursuant to paragraph 11 of Article 6, this guarantee may be used to cover the costs of storage, the costs of transport, as well as the costs of disposal, including any necessary interim operation, depending on the provisions of the relevant national legal frameworks.⁶¹
126. However, for the most part, wastes are illegally trafficked without notification to the involved competent authorities and thus no financial guarantee is in place. If the disposal of the wastes involves a new transboundary movement, national legislation of the States concerned by the transboundary movement may require that a new financial guarantee be contracted. In the absence of a legal requirement to cover the transboundary movement of the wastes by a financial guarantee embedded in the national legal frameworks of the States concerned, the involved competent authorities may, provided that they have the discretion to do so under national law, decide and agree on a case-by-case basis on whether the transboundary movement is to be covered by a financial guarantee or not. Such a financial guarantee could, for instance, serve to cover the costs of storage and/or alternative disposal in case the transboundary movement is delayed or cannot be completed as intended.

6.3. Action to be taken following disposal of the wastes

127. Communication between the relevant competent authorities of the States concerned should continue until it is confirmed that the wastes have been disposed of in an environmentally sound manner.
128. In case the wastes are disposed of in the State where they were located at discovery of the illegal traffic, that State should, as best practice, confirm to the State concerned by the illegal traffic of the completion of disposal in an environmentally sound manner, in accordance with the objective of paragraph 9 of Article 6 of the Convention.
129. In case the wastes are disposed of in another State, the disposer located in the new State of import will be required to inform both the new exporter and the competent authority of the new State of export of receipt by the new disposer of the wastes in question and, in due course, of the completion of disposal as specified in the newly issued notification document pursuant to paragraph 9 of Article 6 of the Convention. It is suggested that after reception of the confirmation of disposal, the new State of export confirm the disposal of the wastes to all other Parties initially concerned by the illegal traffic, in particular, if the wastes were disposed in a third State that was not a State concerned by the illegal traffic.
130. The initial State of import should also maintain communications and cooperation with the competent authorities in the original State of export in case there are criminal or civil proceedings in either State as well as to help prevent any future cases of illegal traffic.

7. Procedures and mechanisms in case of disagreement between the Parties

⁶¹ This is the case in the European Union. Article 6 of the Regulation (EC) No. 1013/2006 on the shipment of wastes provides that all shipments of waste for which a notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance covering: (a) costs of transport; (b) costs of recovery or disposal, including any necessary interim operation; and (c) costs of storage for 90 days. The financial guarantee or equivalent insurance is intended to cover costs arising in the context of: (a) cases where the shipment or the recovery or disposal cannot be completed as intended; and (b) cases where a shipment or the recovery or disposal is illegal. It is noted that under EU legislation, the term “recovery” covers the operations included in Annex IVB of the Convention and the term “disposal” covers the operations included in annex IVA of the Convention.

131. In those cases, where Parties cannot agree or where coordination is not possible, Parties may contact the Secretariat of the Basel Convention who has the mandate to assist Parties upon request in their identification of cases of illegal traffic.⁶² Alternatively, one or both Parties concerned may make a submission to the Committee. Paragraph 9 of the terms of reference of the Committee⁶³ specifies who may make submissions to the Committee. In accordance with paragraph 19 of the terms of reference of the mechanism for promoting implementation and compliance, the Committee shall consider any submission made to it in accordance with paragraph 9 with a view to determining the facts and root causes of the matter of concern and, assist in its resolution. Paragraph 19 also specifies the kind of advice, non-binding recommendations and information that the Committee may provide a Party with as part of the facilitation procedure. Paragraph 20 specifies the kind of additional measures that the Committee may recommend that the Conference of the Parties decide upon. Finally, a third option is for Parties to make use of the dispute settlement provisions embedded in Article 20 of the Convention.

8. Emergencies and liability for damage

132. It may arise that hazardous wastes illegally trafficked cause damage, for instance contamination of the cargo, physical damage or damage to the environment. One possible cause for the occurrence of damage may be that there was inadequate packaging or labeling of the wastes. Paragraph 7 (b) of Article 4 of the Convention provides that each Party shall require that “hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labeled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labeling, and transport, and that due account is taken of relevant internationally recognized practices”.
133. Two provisions of the Convention are of relevance to the issue of damages arising in the context of transboundary movements of hazardous wastes and other wastes: Article 12 and Article 14.
134. Article 12 of the Convention provides that “the Parties shall cooperate with a view to adopting, as soon as practicable, a protocol, setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.”
135. At its fifth meeting in 1999, the Conference of the Parties adopted the Basel Protocol on Liability and Compensation for Damage resulting from the Transboundary Movements of Hazardous Wastes and their Disposal, with the objective to provide a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from transboundary movement of hazardous wastes and other wastes, including incidents occurring because of illegal traffic in those wastes.⁶⁴ The Protocol has not yet entered into force.⁶⁵ As with the Convention itself, only Parties ratifying the Protocol would be bound by the Protocol after its entry into force.
136. Paragraph 2 of Article 14 provides that “the Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.”
137. By decision V/32, the Conference of the Parties decided on an interim basis to enlarge the scope of the Technical Cooperation Trust Fund and that the Secretariat, upon request, could use funds contributed to the Trust Fund, in accordance with paragraphs 2, 3 and 4 of the decision, to assist developing country Parties and Parties with economies in transition in cases of incidents occurring during a transboundary movement of hazardous wastes and other wastes covered by the Basel Convention.⁶⁶

⁶² Paragraph 1 (i) of Article 16.

⁶³ See

<http://www.basel.int/TheConvention/ImplementationComplianceCommittee/Mandate/tabid/2296/Default.aspx>.

⁶⁴ For more information please refer to:

<http://www.basel.int/TheConvention/Overview/LiabilityProtocol/tabid/2399/Default.aspx>.

⁶⁵ As of 31 December 2015, there were ten ratifications of the Protocol bearing in mind that for its entry into force, twenty expressions of consent to be bound must be notified to the Depositary.

⁶⁶ For more information please refer to:

<http://www.basel.int/Implementation/TechnicalAssistance/EmergencyAssistance/Overview/tabid/4764/Default.aspx>.

Appendix 1: Form for the take-back of wastes deemed to be illegal traffic in accordance with paragraph 2 of Article 9 of the Basel Convention: request for take-back (Part I) and notification of take-back (Part II)

PART I: REQUEST FOR THE TAKE-BACK OF WASTES BY THE STATE OF EXPORT, PARAGRAPH 2 OF ARTICLE 9 OF THE BASEL CONVENTION - ILLEGAL TRAFFIC													
<p>1. Competent Authority of State requesting the take-back</p> <p>- State of import <input type="checkbox"/> or – State of transit <input type="checkbox"/></p> <p>Job Title:</p> <p>Department:</p> <p>Institution :</p> <p>Country:</p> <p>Address:</p> <p>Contact person:</p> <p>E-mail:</p> <p>Tel: Fax:</p> <p>Date of request:</p> <p>Stamp and/or signature:</p>	<p>2. Competent Authority of State of export to take-back or ensure the take back of the wastes</p> <p>Job title:</p> <p>Department:</p> <p>Institution:</p> <p>Country:</p> <p>Address:</p> <p>Contact person:</p> <p>E-mail:</p> <p>Tel: Fax:</p> <p>Request received on:</p> <p>Stamp and/or signature: <i>(to confirm receipt of the request only)</i></p>												
<p>3. Other States concerned (specify why):</p>													
<p>4. Description and quantity of the wastes to be taken back</p> <p>Designation and composition of the waste:</p> <p>Physical characteristics:</p> <p>Number of shipments: Total quantity in tonnes (Mg) or m³:</p>													
<p>Waste identification <i>(fill in relevant codes)</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">(i) Basel Annex VIII (or IX if applicable):</td> <td style="width: 50%;">(ii) OECD code (if different from (i)):</td> </tr> <tr> <td>(iii) EC list of wastes:</td> <td>(iv) National code in country of export:</td> </tr> <tr> <td>(v) National code in country of import:</td> <td>(vi) Other (specify):</td> </tr> <tr> <td>(vii) Y-code:</td> <td>(viii) H-code:</td> </tr> <tr> <td>(ix) UN class:</td> <td>(x) UN Number:</td> </tr> <tr> <td>(xi) UN Shipping name:</td> <td>(xii) Customs code(s) (HS):</td> </tr> </table>		(i) Basel Annex VIII (or IX if applicable):	(ii) OECD code (if different from (i)):	(iii) EC list of wastes:	(iv) National code in country of export:	(v) National code in country of import:	(vi) Other (specify):	(vii) Y-code:	(viii) H-code:	(ix) UN class:	(x) UN Number:	(xi) UN Shipping name:	(xii) Customs code(s) (HS):
(i) Basel Annex VIII (or IX if applicable):	(ii) OECD code (if different from (i)):												
(iii) EC list of wastes:	(iv) National code in country of export:												
(v) National code in country of import:	(vi) Other (specify):												
(vii) Y-code:	(viii) H-code:												
(ix) UN class:	(x) UN Number:												
(xi) UN Shipping name:	(xii) Customs code(s) (HS):												
<p>5. Reason for requesting take-back</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">(i) No notification of movement <input type="checkbox"/></td> <td style="width: 33%;">(ii) No consent given to movement <input type="checkbox"/></td> <td style="width: 33%;">(iii) Consent to movement obtained through falsification, misrepresentation or fraud <input type="checkbox"/></td> </tr> <tr> <td>(iv) Movement does not conform in a material way with documents <input type="checkbox"/></td> <td colspan="2">(v) Movement resulted in deliberate disposal <input type="checkbox"/></td> </tr> <tr> <td colspan="3">(vi) Other: Please specify <input type="checkbox"/></td> </tr> </table>		(i) No notification of movement <input type="checkbox"/>	(ii) No consent given to movement <input type="checkbox"/>	(iii) Consent to movement obtained through falsification, misrepresentation or fraud <input type="checkbox"/>	(iv) Movement does not conform in a material way with documents <input type="checkbox"/>	(v) Movement resulted in deliberate disposal <input type="checkbox"/>		(vi) Other: Please specify <input type="checkbox"/>					
(i) No notification of movement <input type="checkbox"/>	(ii) No consent given to movement <input type="checkbox"/>	(iii) Consent to movement obtained through falsification, misrepresentation or fraud <input type="checkbox"/>											
(iv) Movement does not conform in a material way with documents <input type="checkbox"/>	(v) Movement resulted in deliberate disposal <input type="checkbox"/>												
(vi) Other: Please specify <input type="checkbox"/>													

6. Information on the illegal shipment

Detection place:

Detected date:

Detected by:

Job title:

Department:

Institution:

Country:

Address:

Contact person:

Email:

Tel:

Fax:

Steps taken to safely store the wastes:

Current location of the wastes:

7. Entities involved in the illegal shipment**Waste generator** Name:

Contact person:

Job title:

Department

Institution:

Country:

Address:

Email:

Tel:

Fax:

Waste exporter Name:

Contact person:

Job title:

Department

Institution:

Country

Address:

Email:

Tel:

Fax

Other entity Name:

Contact person:

Job title:

Department

Institution:

Country

Address:

Email:

Tel:

Fax:

8. Evidence attached to the request

Evidence collected:

Evidence collected by:

Job title:

Department:

Institution:

Country:

Address:

Contact person:

Email:

Tel:

Fax:

9. Costs expected to be covered by the generator or exporter or State of export (unless otherwise specified, the amounts are presumed to be in USD)

Costs of storage:

Costs of packaging and labelling:

Costs of transport:

Costs of disposal/recovery:

Other costs:

Specify the nature of the costs:

PART II: NOTIFICATION DOCUMENT FOR THE TAKE-BACK OF WASTES, PARAGRAPH 2 OF ARTICLE 9 OF THE BASEL CONVENTION - ILLEGAL TRAFFIC

<p>1. Exporter – notifier Registration No: Name: Job title: Department: Institution: Country: Address: Contact person: Tel: Fax: E-mail:</p>	<p>3. Notification No: Notification concerning A. Individual shipment: <input type="checkbox"/> (ii) Multiple shipments: <input type="checkbox"/> (i) B. Disposal (1): <input type="checkbox"/> (ii) Recovery : <input type="checkbox"/> (i) C. Pre-consented recovery facility (2;3) Yes <input type="checkbox"/> No <input type="checkbox"/> D. Take-back of illegal traffic <input type="checkbox"/></p>
<p>2. Importer - consignee Registration No: Name: Job title: Department: Institution: Country: Address: Contact person: Tel: Fax: E-mail:</p>	<p>4. Total intended number of shipments: 5. Total intended quantity(4): Tonnes (Mg): m³:</p>
<p>8. Intended carrier(s) Registration No: Name(7): Job title: Department: Institution: Country: Address: Contact person: Tel: Fax: E-mail: Means of transport(5):</p>	<p>6. Intended period of time for shipment(s) (4): First departure: Last departure: 7. Packaging type(s) (5): Special handling requirements (6): Yes: <input type="checkbox"/> No: <input type="checkbox"/></p>
<p>9. Waste generator(s) - producer(s)(1;7;8) Registration No: Name: Job title: Department: Institution: Country: Address: Contact person:</p>	<p>11. Disposal / recovery operation(s) (2) D-code / R-code (5): Technology employed (6): Reason for export (1;6):</p>
	<p>12. Designation and composition of the waste(6):</p>
	<p>13. Physical characteristics(5):</p>
	<p>14. Waste identification (fill in relevant codes)</p>

Tel: Fax:			
E-mail:		(i) Basel Annex VIII (or IX if applicable):	
Site and process of generation (6):		(ii) OECD code (if different from (i)):	
10. Disposal facility		(iii) EC list of wastes:	
(2): <input type="checkbox"/> or recovery facility (2): <input type="checkbox"/>		(iv) National code in country of export:	
Registration No:		(v) National code in country of import:	
Name:		(vi) Other (specify):	
Job title:		(vii) Y-code:	
Department:			
Institution:		(viii) H-code (5):	
Country:		(ix) UN class (5):	
Address:		(x) UN Number:	
Contact person:		(xi) UN Shipping name:	
Tel: Fax:		(xii) Customs code(s) (HS):	
E-mail:			
Actual site of disposal/recovery:			
15. (a) Countries/States concerned, (b) Code no. of competent authorities where applicable, (c) Specific points of exit or entry (border crossing or port)			
State of export - dispatch	State(s) of transit (entry and exit)		State of import - destination
(a)			
(b)			
(c)			
16. Customs offices of entry and/or exit and/or export (European Community):			
Entry:	Exit:	Export:	
17. Exporter's - notifier's / generator's - producer's (1) declaration:			
I certify that the information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that,			18. Number of annexes attached
<input type="checkbox"/> If requested by any of the involved Parties, that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement (<i>please tick box if a form of financial guarantee is required and in force</i>).			
Exporter's - notifier's name:	Date:	Signature:	
Generator's - producer's name:	Date:	Signature:	
FOR USE BY COMPETENT AUTHORITIES			
19. Acknowledgement from the relevant competent authority of countries of import - destination / transit (1) / export - dispatch(9):			
Country:	Name of competent authority:		
Notification received on:	Stamp and/or signature:		
Acknowledgement sent on:			

- (1) Required by the Basel Convention
- (2) In the case of an R12/R13 or D13-D15 operation, also attach corresponding information on any subsequent R12/R13 or D13-D15 facilities and on the subsequent R1-R11 or D1-D12 facilit(y)ies when required
- (3) To be completed for movements within the OECD area and only if B(ii) applies
- (4) Attach detailed list if multiple shipments
- (5) See list of abbreviations and codes on the next page
- (6) Attach details if necessary
- (7) Attach list if more than one
- (8) If required by national legislation
- (9) If applicable under the OECD Decision

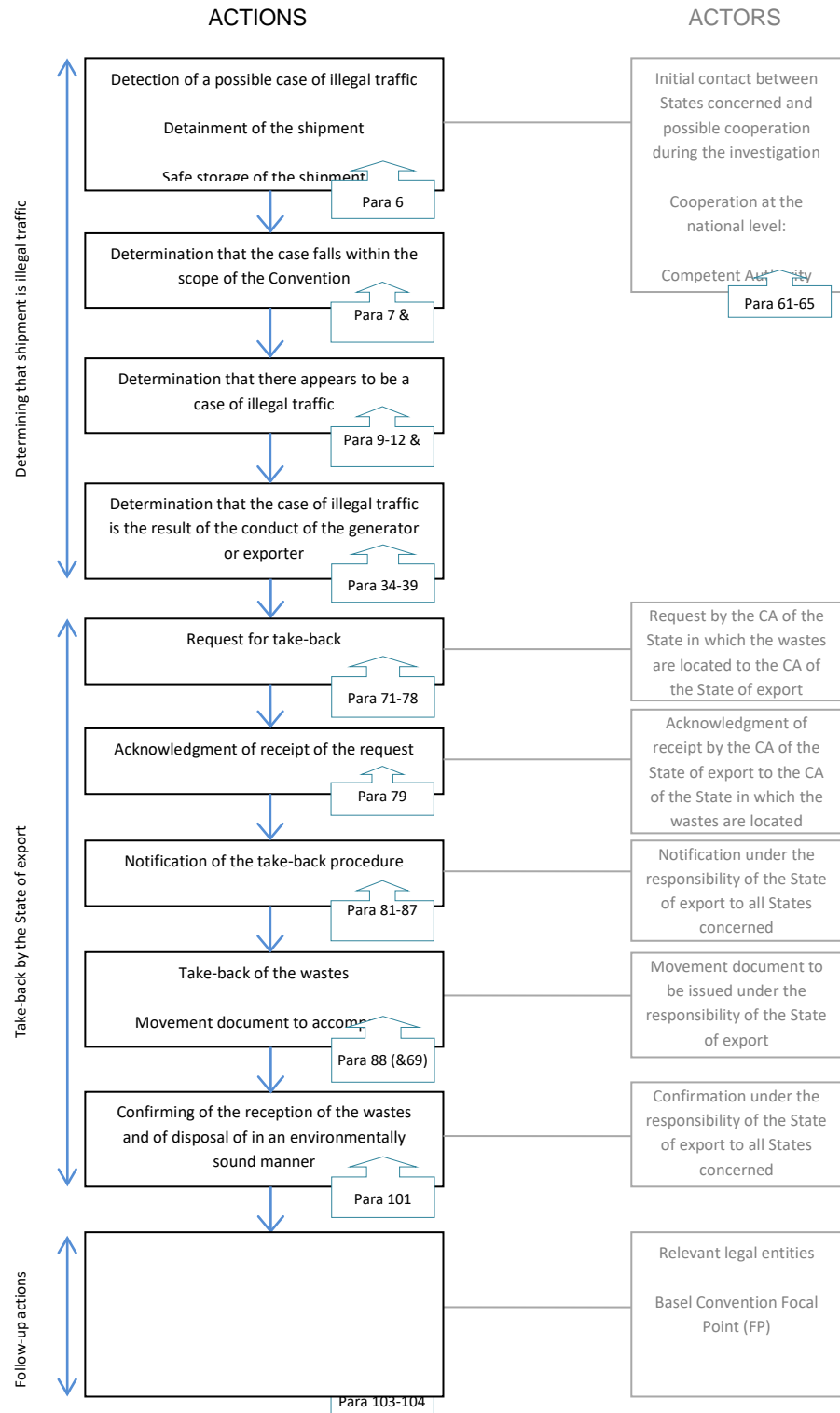
List of abbreviations and codes used in the notification document

<p>DISPOSAL OPERATIONS (block 11)</p> <p>D1 Deposit into or onto land, (e.g., landfill, etc.)</p> <p>D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)</p> <p>D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)</p> <p>D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)</p> <p>D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)</p> <p>D6 Release into a water body except seas/oceans</p> <p>D7 Release into seas/oceans including sea-bed insertion</p> <p>D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list</p> <p>D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.)</p> <p>D10 Incineration on land</p> <p>D11 Incineration at sea</p> <p>D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.)</p> <p>D13 Blending or mixing prior to submission to any of the operations in this list</p> <p>D14 Repackaging prior to submission to any of the operations in this list</p> <p>D15 Storage pending any of the operations in this list</p>	
<p>RECOVERY OPERATIONS (block 11)</p> <p>R1 Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) - Use principally as a fuel or other means to generate energy (EU)</p> <p>R2 Solvent reclamation/regeneration</p> <p>R3 Recycling/reclamation of organic substances which are not used as solvents</p> <p>R4 Recycling/reclamation of metals and metal compounds</p> <p>R5 Recycling/reclamation of other inorganic materials</p> <p>R6 Regeneration of acids or bases</p> <p>R7 Recovery of components used for pollution abatement</p> <p>R8 Recovery of components from catalysts</p> <p>R9 Used oil re-refining or other reuses of previously used oil</p> <p>R10 Land treatment resulting in benefit to agriculture or ecological improvement</p> <p>R11 Uses of residual materials obtained from any of the operations numbered R1-R10</p> <p>R12 Exchange of wastes for submission to any of the operations numbered R1-R11</p> <p>R13 Accumulation of material intended for any operation in this list.</p>	
<p>PACKAGING TYPES (block 7)</p> <p>1. Drum</p> <p>2. Wooden barrel</p> <p>3. Jerrican</p> <p>4. Box</p> <p>5. Bag</p> <p>6. Composite packaging</p> <p>7. Pressure receptacle</p> <p>8. Bulk</p> <p>9. Other (specify)</p>	<p>H-CODE AND UN CLASS (block 14)</p> <p>UN Class H-code Characteristics</p> <p>1 H1 Explosive</p> <p>3 H3 Flammable liquids</p> <p>4.1 H4.1 Flammable solids</p> <p>4.2 H4.2 Substances or wastes liable to spontaneous combustion</p> <p>4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases</p>

<p>MEANS OF TRANSPORT (block 8)</p> <p>R = Road T = Train/rail S = Sea A = Air W = Inland waterways</p>	<p>5.1 H5.1 Oxidizing 5.2 H5.2 Organic peroxides 6.1 H6.1 Poisonous (acute) 6.2 H6.2 Infectious substances 8 H8 Corrosives 9 H10 Liberation of toxic gases in contact with air or water 9 H11 Toxic (delayed or chronic) 9 H12 Ecotoxic 9 H13 Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above</p>
<p>PHYSICAL CHARACTERISTICS (block 13)</p> <p>1. Powdery/powder 2. Solid 3. Viscous/paste 4. Sludgy 5. Liquid 6. Gaseous 7. Other (specify)</p>	

Further information, in particular related to waste identification (block 14), i.e. on Basel Annexes VIII and IX codes, OECD codes and Y-codes, can be found in a Guidance/Instruction Manual available from the OECD and the Secretariat of the Basel Convention

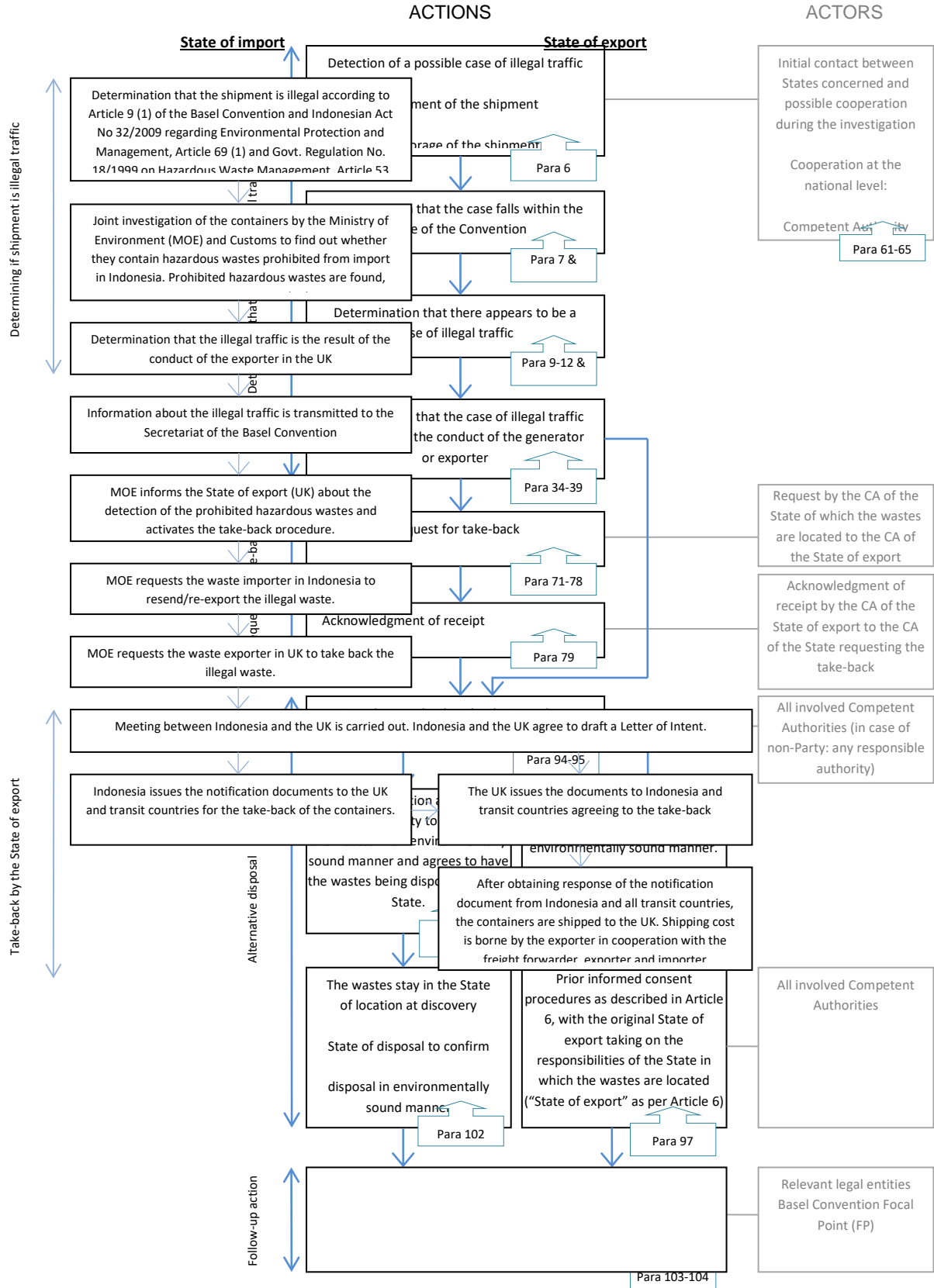
Appendix 2: Graphic illustration of the suggested take-back procedure (paragraph 2 of Article 9)



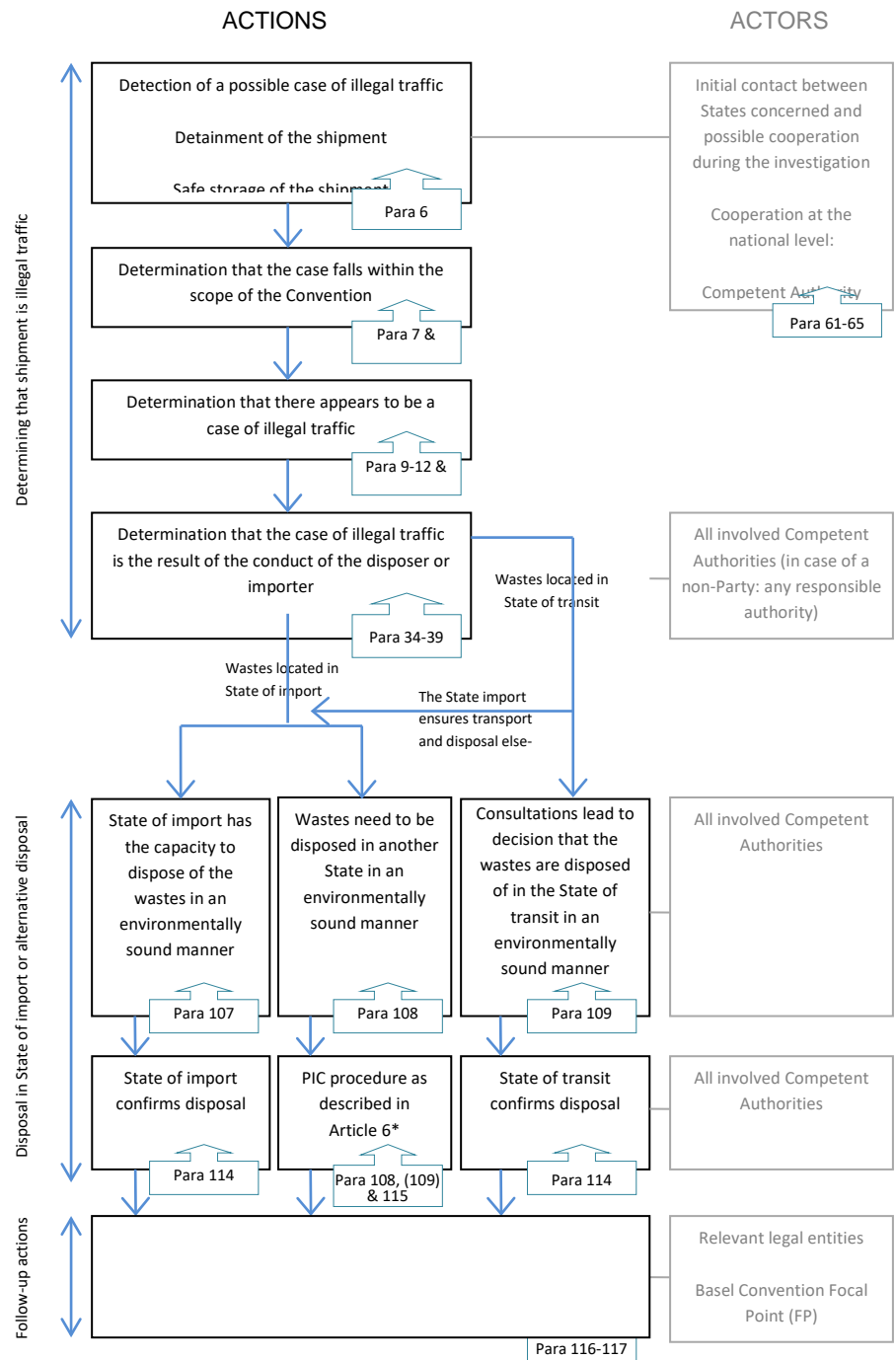
Appendix 3: Case study on the implementation of the take-back procedure (paragraph 2 of Article 9)

The diagram shown below is of the take-back procedures as implemented during an export case from the United Kingdom of Great Britain and Northern Ireland to Indonesia in January 2012, as submitted by Indonesia. Scrap metals exported to Indonesia were detained after it was detected that the movement contained wastes prohibited from import into Indonesia.

Appendix 4: Graphic illustration in case take-back of the wastes is considered impracticable (paragraph 2 of Article 9)

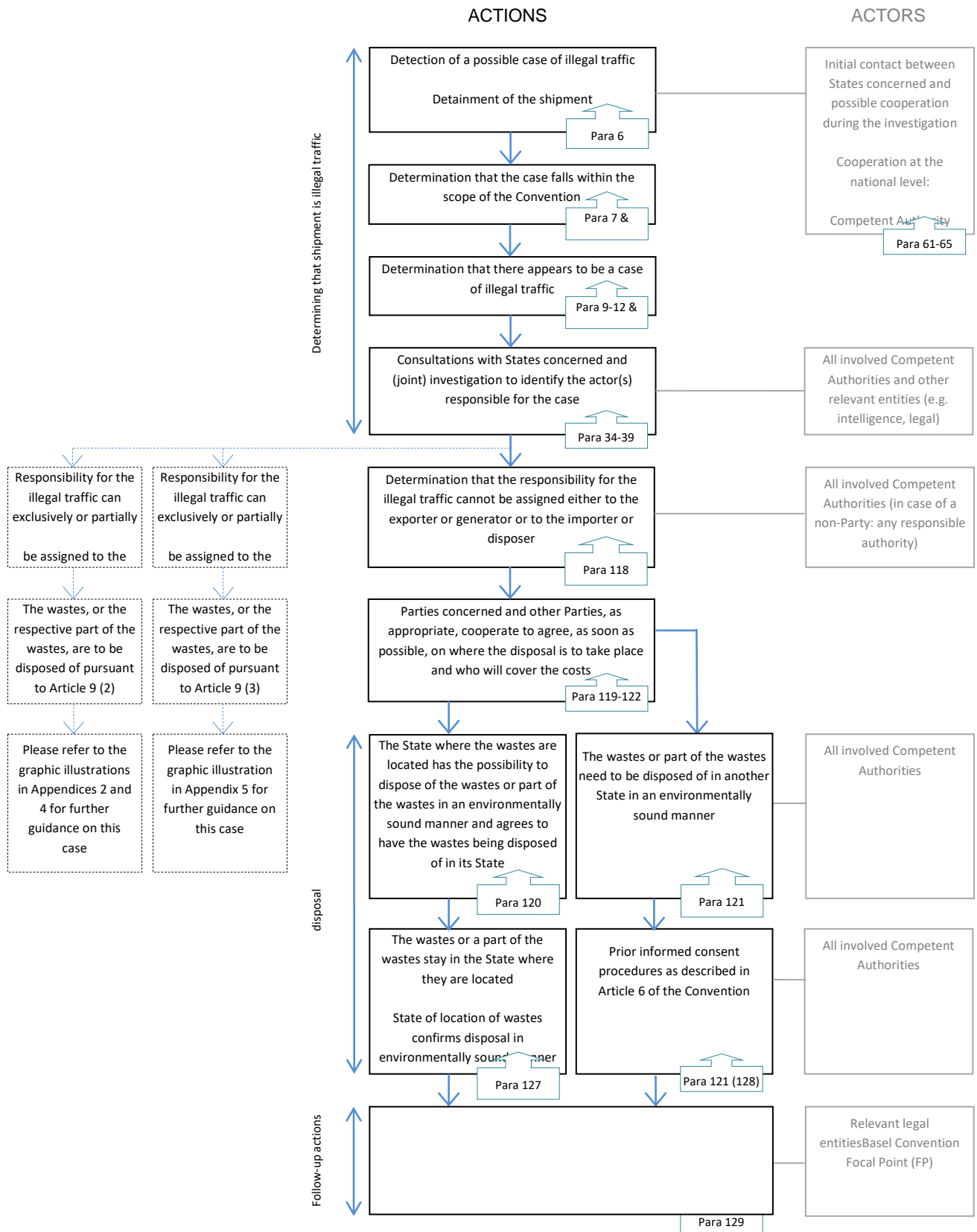


Appendix 5: Graphic illustration in case the illegal traffic deemed to be as a result of conduct on the part of the importer or disposer (paragraph 3 of Article 9)



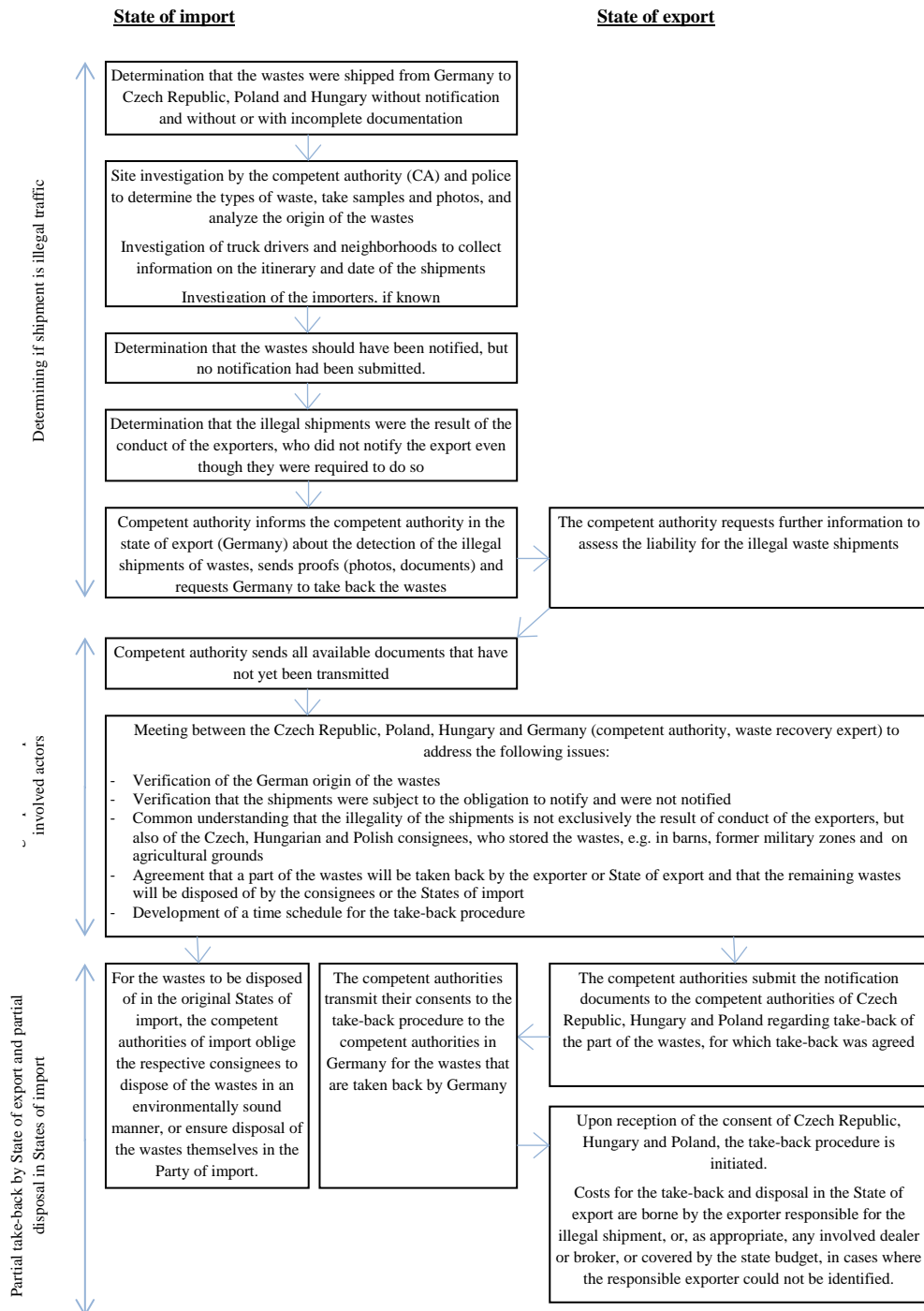
*If the wastes are located in a State of transit, the original State of import takes the responsibilities of the State of transit ("State of export" as per Article 6).

Appendix 6: Graphic illustration of the implementation of the duty to cooperate where the responsibility for the illegal traffic cannot be assigned (paragraph 4 of Article 9)



Appendix 7: Case study on the implementation of the duty to cooperate where the responsibility for the illegal traffic could not be assigned (paragraph 4 of Article 9)

The diagram below illustrates a case of cooperation regarding illegal shipments of wastes from Germany to Poland, Czech Republic and Hungary, as submitted by Germany. The exporters were known for some waste shipments, and unknown for others. In the case of the waste shipments to Czech Republic and Hungary, the German origin of the wastes could be established, but the exporter could not be identified because the consignees did not record the shipments as foreseen by the European Waste Shipment Regulation. After negotiations with the States concerned, Germany agreed to take back a part of those wastes, for which the responsibility of the exporter, even if unknown, could be established. The remaining wastes were disposed of in the respective State of import, either by the consignee or by the State of import itself.



附件 9 設備翻新再使用之壽命及提升製造技術不再使用可能危害環境之物質等建議



Distr.: General
26 January 2017
English only

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (b) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
scientific and technical matters: technical guidelines**

**Compilation of comments on issues mentioned in paragraph 5 of
decision BC-12/5 on the technical guidelines on transboundary
movements of electrical and electronic waste and used electrical
and electronic equipment, in particular regarding the distinction
between waste and non-waste under the Basel Convention**

Note by the Secretariat

As referred to in the note by the Secretariat on technical guidelines (UNEP/CHW.13/6), the annex to the present note sets out a compilation of comments received from Parties and others on the issues referred to in paragraph 5 of decision BC-12/5 on the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention. Comments submitted by India, Norway and the Information Technology Industry Council (ITI) pursuant to paragraph 6 of decision OEWG-10/5 are compiled in the annex to the present note. A further compilation of comments on the same issues prepared for the tenth meeting of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal pursuant to paragraph 6 of decision BC-12/5 is set out in document UNEP/CHW/OEWG.10/INF/22. The present note, including its annex, has not been formally edited.

* UNEP/CHW.13/1.

Annex

Compilation of comments received from Parties and others on issues mentioned in paragraph 5 of decision BC-12/5 on the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention

Submitter	General Comments	Specific suggestions
India	<p>1. The technical guidelines provide guidance on waste electrical and electronic equipment (e-waste) and used electrical and electronic equipment (used equipment) that may or may not be e-waste, in particular on the distinction between waste and non-waste. COP-12 in its decision BC-12/5 adopted, on an interim basis, the technical guidelines on the understanding that the technical guidelines are of a non-legally binding nature and that the national legislation of a Party prevails over the guidance provided within the technical guidelines, in particular in paragraph 31, 42 and 43 thereof. The decision further acknowledged the need to look further into the guidance on the distinction between waste and non-waste, in particular with reference to paragraphs 31 a and 31 b of the technical guidelines. The decision agreed to include the further elaboration of work on that issue in the work programme of the OEWG for 2016-2017 in order to prepare draft revised guidelines.</p> <p>2. The technical guidelines as per document UNEP/CHW.12/5/Add.1/Rev.1, at Appendix V acknowledged that certain issues addressed in the present guidelines require further consideration and that relevant information should be obtained. The appendix referred to contain an overview of the issues and specific texts that were discussed by COP-12 but on which no agreement was reached. Further work will be undertaken on the guidelines in accordance with COP decision BC-12/5. The issues referred were (i) Party notifications as per paragraphs 27 and 29; (ii) Residual life time and age of used equipment as per paragraphs 30, 31(b) and 32; (iii) Obsolete technologies, including cathode ray tubes as per paragraph 31(b); (iv) Identification of relevant actors in the documentation as per paragraph 32(a); (v) Specific exemption for medical devices as per paragraph 31(b); (vi) Specific exemption for used parts as per paragraph (31); and (vii) Waste resulting from failure analysis, repair and refurbishment activities as per paragraph 31(b).</p>	<p>SUGGESTED ADJUSTMENTS TO UNEP/CHW.12/5/Add.1/Rev.1</p> <p>APPENDIX V ISSUES FOR FURTHER WORK</p> <p>1. <u>Party notifications as per paragraphs 27 and 29</u></p> <p>a) Paragraph 27 and 29. Paragraphs 27 and 29 of the present guidelines address the fact that countries may or may not wish to allow imports or exports of used electrical and electronic equipment destined for failure analysis, repair or refurbishment. The paragraphs indicate that parties should notify the Secretariat of the Basel Convention in accordance with Articles 3 and 13, paragraph 2, as appropriate, of their wishes on that issue.</p> <p>Further work is needed to address those cases in which parties have not so notified the Secretariat.</p> <p>Revise the suggested text of COP-12 in the following manner:</p> <p><i>“In case a country has not communicated any such information, exports to that country are only allowed if the importer has obtained written permission from the authorities in the country of destination for the import of such specific consignment of equipment and in case it will be re-exported back after such failure analysis, repair and refurbishment then the confirmation that the equipment is not considered to be waste.”</i></p> <p>b) Appendix III, box 8. Further work is also needed on how to reflect the information contained in the notification from countries in the declaration made by the person</p>

	<p>3. Document UNEP/CHW/OEWG.10/5 acknowledged the decision BC-12/5 of COP-12 that the technical guidelines are of a non-legally binding nature and that the national legislation of a party prevails over the guidance provided within the technical guidelines, in particular in paragraphs 31, 42 and 43 thereof.</p> <p>4. As referred to in document UNEP/CHW/OEWG.10/5 of OEWG-10, parties and others were invited to provide comments on the issues mentioned in paragraph 5 of decision BC-12/5 and on Appendix V of the interim technical guidelines on transboundary movements of e-waste and used equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention. The Secretariat compiled the comments and made it available during OEWG-10 meeting as document UNEP/CHW/OEWG.10/INF/22.</p> <p>5. In the report of OEWG-10 as in document UNEP/CHW/OEWG.10/13, there was consensus that the guidelines should be practical and implementable, and there was broad agreement that they needed further work before they were ready to be finalised. It was further acknowledged that there was an urgent need to deal with the issues for further work listed in Appendix V of the interim guidelines and resolution of those issues was critical in making the guidelines useful to all Parties, especially developing country Parties.</p> <p>6. The report also refers to the view that it was also necessary to discuss and finalise issues other than those listed in Appendix V, some of which were reflected in decision BC-12/5 but were not addressed in the guidelines.</p> <p>7. The report also acknowledges the challenges faced by Parties, particularly developing country Parties, in implementing the guidelines, including a lack of strong regulatory frameworks, technical infrastructure, capacity and know-how necessary for the environmentally sound disposal of e-waste.</p> <p>8. Decision OEWG-10/5 of OEWG-10 acknowledged that certain elements of the technical guidelines may require further elaboration, and mandated the small intersessional working group, to further explore options for addressing outstanding issues, in particular those listed in Appendix V of the technical guidelines.</p> <p>9. Accordingly, as per discussions and views that are available since COP-12, May 2015 to OEWG-10, June 2016 following forms the crux of the technical guidelines on e-waste:</p> <p>i. The technical guidelines have been adopted on an interim basis on</p>	<p>who arranges the transport.</p> <p>i. Revise the suggested text of COP-12 in the following manner: <i>“The receiving facility is covered by a notification by the authorities of the country of import indicating it may receive equipment as non-waste as published by the Secretariat of the Basel Convention in case the equipment is to be retained in the country of import; or Declaration along with tentative time for re-export, which shall not be more than one year, after failure analysis, repair or refurbishment.”</i></p> <p>ii. It is suggested to insert the following text after the existing sentence in point (a) of box 8: <i>“The transport of the equipment complies with applicable national legislation of importing and exporting country; international rules and standards; and Basel Convention guidelines.”</i></p> <p>iii. It is suggested to delete the existing text in point (b) of box 8 and replace it with the following sentence: <i>“Permission from the concerned authority of the country of import, in cases where the equipment has to be retained in the country, is there.”</i></p> <p>iv. It is suggested to revise the existing text in point (c) of box 8 in the following manner (suggested new text is underlined): <i>“Upon request from the relevant authorities, I will make available underlying documentation (e.g., <u>necessary permission from authority, copy of applicable contract</u> or equivalent documents) that can be used to verify the statements contained in subparagraphs (a) and (b) above.”</i></p> <p>2. <u>Residual life-time and age of used equipment</u></p> <p><i>Note: As has been the apprehensions of some of the Parties in terms of deciding upon the residual life since it depends on many factors as environmental condition, maintenance, etc., the factors may be indicated as conditions subject to which the residual is depended upon. However, the tentative or expected residual life subject to certain conditions need to be indicated, specifically when import is for direct re-use in the importing country as in para 31(a) with no scope of re-export.</i></p> <p>a) When equipment normally should be considered waste</p>
--	---	---

	<p>the understanding that the guidelines are of a non-legally binding nature and that the national legislation of a party prevails over the guidance provided within the technical guidelines, in particular in paragraphs 31, 42 and 43 thereof.</p> <ul style="list-style-type: none"> ii. The guidelines should be practical and implementable, and further work is needed before these are ready to be finalized. iii. Certain elements of the technical guidelines may require further elaboration. iv. All the outstanding issues including those listed in Appendix V of the technical guidelines need to be addressed. 	<ul style="list-style-type: none"> i. Normal life-span of some of the consumer equipment as mobile phone, tablet, etc. may not be more than 2-3 years. Thus, excluding those used equipment having more than 1/3 of the normal life span of these equipment from waste category won't be feasible approach as the residual life span in such circumstances may vary from few months to 1 year; obliging to categories them as waste. Accordingly, replace the suggested text of COP-12 with the following text in paragraph 30: <ul style="list-style-type: none"> “Residual life of equipment is less than 5 years and date of manufacture is more than 7 years from the date of proposed import in case of refurbished equipment and more than 5 years for non-refurbished equipment”; ii. In line with above, include following under paragraph 31 (a): <ul style="list-style-type: none"> “It has residual life of five or more than five years and date of manufacturing, which is five or less than five years for non-refurbished equipment and seven or less than seven for refurbished equipment. In case, the used equipment is deviating from these criteria and is functional on the basis of functionality test, necessary approval of competent authority of country of import is in place.” <p>b) Requirements for transport of used equipment destined for root cause analysis, repair and refurbishment</p> <p>Under the Paragraph 31 (b)(ii), minimum set of provisions in the contract shall also comprise of following:</p> <ul style="list-style-type: none"> “(i) Used electrical and electronic assemblies are imported for root cause analysis, repair or refurbishment and to be re-exported back within one year of import; or if to be retained in the importing country then necessary permission from competent authority in the importing country, is in place, if applicable. (ii) That the management of hazardous wastes resulting from failure analysis, repair and refurbishment operations in countries may focus on environmentally sound management and that the transboundary movement of such hazardous wastes shall be responsibility of the exporter, in case of the non-availability of environmentally sound management facility in the importing country.” <p><i>Note: Replacement of “person who arranges the transport” with “exporter” is in line with text of Basel Convention.</i></p>
--	---	---

		<p>c) Documentation to be provided by the person who arranges the transport</p> <p>i. It is suggested to insert the following text after the existing sentence in paragraph 31(a) (iii):</p> <p><i>“and necessary approvals from competent authority of importing country are in place, if applicable.”</i></p> <p>ii. The text at 32(b) of the guideline to be modified as follows:</p> <p><i>“Description of the equipment including name, function, date of manufacturing of every piece (age) (excluding for spare parts or components) and expected residual life”;</i></p> <p>iii. Include an additional provision as given below under paragraph 32:</p> <p><i>“Expected date of re-export after completion of failure analysis, repair or refurbishment, if applicable;”</i></p> <p><u>3. Obsolete technologies, including cathode ray tubes</u></p> <p>i. The issue of obsolete technologies, including cathode ray tubes is being discussed and referred only in reference to para 31(b) of the guidelines pertaining to transboundary movements of used equipment destined for failure analysis, repair and refurbishment as a non-waste without reference or discussion of the issue in reference to para 31(a) pertaining to transboundary movement for direct reuse, or extended use by the original owner. Further, the reference to obsolete technologies is limited to cathode ray tubes. An elaborate discussion on these two issues of (i) obsolete technologies in reference to para 31(a); and (ii) elaboration on the list of obsolete technologies would be useful in finalizing their status as waste or non-waste. Thus as in decision OEWG-10/5, the concept of obsolete technologies, including the link with subparagraph 5 (d) of decision BC-12/5, which refers to preparation of draft revised guidelines in reference to paragraphs 31 a and 31 b of the technical guidelines, should be further clarified, taking into consideration other relevant multilateral environmental agreements and country-level criteria.</p> <p>ii. Cathode Ray Tubes (CRTs) are also used in some medical and broadcasting</p>
--	--	---

		<p>equipment for public purposes, and many of them are expensive and have a long product life to ascertain environmental and economic feasibility of such sectors. Occasionally, CRTs in these equipment need to be repaired to extend their life. Thus uniform ban on the movement of used equipment containing CRTs for repair and refurbishment may lead to increase in e-waste by curtailing their extendable life. Thus with reference to para 31(b), transboundary movement of CRT containing non-consumer equipment may be continued for root cause analysis, repair and refurbishment; subject to that condition that they will be re-exported to exporting country after completion of such repair and they are to be considered as non-waste. As far as para 31(a) pertaining to transboundary movement for direct reuse, or extended use by the original owner is concerned, it should be subject to necessary permission from importing country and declaration about meeting the necessary country-level criteria.</p> <p>iii. Replace the suggested text of COP-12 with the following text <i>in both paragraph 31 (a) and (b)</i>:</p> <p><i>“Used equipment transported across borders is compliant with applicable national legislation and relevant international rules, standards and guidelines on restrictions of the use of hazardous substances.”</i></p> <p>4. <u>Identification of relevant actors in the documentation</u></p> <p>Further work is needed to assess if some additional actors should be added to paragraph 32 (a) and Appendix III.</p> <p>i. Delete the suggested text of COP-12 in point (a) of paragraph 32 and replace it with the following text:</p> <p><i>“Name and contact details of importer, exporter and carrier;”</i></p> <p>ii. Revise the suggested text of COP-12 in the following manner in Appendix III:</p> <p><i>“carrier, importer, exporter, country of export, country of import, transit country, if any”</i></p> <p>iii. Further, <i>“person who arranges the transport”</i> needs to be replaced with <i>“exporter”</i> in Appendix III.</p>
--	--	--

		<p><u>5. Specific exemption for medical devices</u></p> <p>India is not in favour of specific exemption for specific sector till the time any of such import of used electrical and electronic equipment for root cause analysis, repair or refurbishment is compliant with provision of re-export within one year of import; or if to be retained in the importing country than necessary permission from competent authority in the importing country, is in place, and all the conditions as in para 31 (b) are followed, if applicable. Further, the management of hazardous wastes resulting from failure analysis, repair and refurbishment operations should focus on environmentally sound management and the transboundary movement of such hazardous wastes should be responsibility of the exporter, in case of the non-availability of environmentally sound management facility in the importing country.</p> <p><u>6. Specific exemption for used parts</u></p> <p>Further, work is needed on specific exemptions for used parts in the context of transports for failure analysis, repair and refurbishment.</p> <p>i. Revise the suggested text of COP-12 in paragraph 31 as follows:</p> <p><i>“Used refurbished parts for service and maintenance of equipment which may contain electrical or electronic components, handled in a closed circular economy for remanufacturing provided that the transboundary movement of defective or non-functional part and other hazardous wastes generated should be responsibility of the exporter, in case of the non-availability of environmentally sound management facility in the importing country.”</i></p> <p><u>7. Waste resulting from failure analysis, repair and refurbishment activities</u></p> <p>i. Replace the suggested text of COP-12 with the following suggested new text in paragraph 31(b):</p> <p><i>“The transboundary movement of defective or non-functional equipment or their part and other hazardous wastes resulting from failure analysis, repair and refurbishment activities should be responsibility of the exporter, in case of the non-availability of environmentally sound management facility in the importing country.”</i></p> <p>ii. Revise the suggested text of COP-12 in Section VI as follows:</p>
--	--	--

“It is recommended to facilities receiving used equipment that is not waste and is intended for failure analysis, repair and refurbishment to, as appropriate, include provisions in the contract with the person who arranges the transport that, in case of the non-availability of environmentally sound management facility in the importing country transboundary movement of a) used equipment that was destined for failure analysis, repair or refurbishment, but for which no failure analysis, repair or refurbishment has been conducted, and b) waste generated during failure analysis, repair or refurbishment; is responsibility of exporter.”

OTHER OUTSTANDING ISSUES

1. Paragraph 31 (b) (ii)

The content of the legal contract need not be part of the guideline; or the following amendments need to be incorporated:

- i. Paragraph 31 (b) to be amended as, *“when the carrier or exporter of the used equipment claims that the equipment is destined for failure analysis, or for repair and refurbishment with the intention of reuse, or extended use by the original owner, for its originally intended purpose, provided that the criteria set out in sub-paragraphs (a) (iii) and (a) (iv) of paragraph 31 above and all of the following conditions are met”*.
- ii. Paragraph 31 (b) (ii) to be amended by replacing *“person who arranges the transport”* with *“exporter”*. The paragraph will accordingly be revised as given below:

“A valid contract exists between the exporter and the legal representative of the facility where the equipment is to be repaired or refurbished or undergo failure analysis in the importing country. The copy of this contract containing following minimum set of provisions shall be carried by the Carrier:”

As stated above w.r.t. Appendix V, under the Paragraph 31 (b)(ii), minimum set of provisions in the contract shall comprise of following:

- a) *Used electrical and electronic assemblies are imported for root cause analysis, repair or refurbishment and to be re-exported back within one year of import; or if to be retained in the importing country then necessary permission from competent*

		<p><i>authority in the importing country, is in place, if applicable.</i></p> <p>b) <i>Para 31 (b)(ii)(b) is to be modified as “That the management of hazardous wastes resulting from failure analysis, repair and refurbishment operations in countries may focus on environmentally sound management and that the transboundary movement of such hazardous wastes shall be responsibility of the exporter in exporting country, in case of the non-availability of environmentally sound management facility in the importing country”.</i></p> <p>c) <i>Para 31 (b)(ii)(d) to be modified as “A provision allocating responsibility to exporter throughout the whole process, from export until the equipment is either analysed or repaired or refurbished to be fully functional, including cases where the equipment is not accepted by a facility and has to be taken back”.</i></p> <p>d) <i>Existing para 31(b)(ii)(a) to remain unchanged and para 31 (b)(ii)(b) and 31 (b)(ii)(e) to be removed.</i></p> <p>2. Paragraph 42 and 43</p> <p><i>The text given in para 1 of decision BC-12/5 that the technical guidelines are of a non-legally binding nature and that the national legislation of a party prevails over the guidance provided within the technical guidelines, in particular in paragraphs 31, 42 and 43 thereof shall form part of the text in guideline.</i></p> <p>3. Definition of “person who arranges the transport” in Appendix I.</p> <p><i>The inclusion of a new terminology i.e., a “person who arranges the transport” which is not part of the Basel Convention text is creating ambiguity w.r.t. the whole procedure for transboundary movement of hazardous and other wastes, specifically when the number of other actors viz. carrier, importer, exporter, generator are already defined in the text of the convention.</i></p> <p><i>The aforesaid new terminology gives the impression of a transporter whereas actually the transporter does not have any concrete role in the whole transboundary movement and the “transporter” is already included in the text of Basel Convention as “carrier”.</i></p>
--	--	--

		<p><i>Furthermore, during any such transboundary movement of hazardous and other wastes, authorities and any other relevant stakeholders are much more conversant with generally used terminology as carrier, importer and exporter.</i></p> <p><i>Accordingly, it is proposed to remove the use of this particular terminology from the guidelines completely and replace this with either “carrier” or “exporter”, as applicable. This will also be in line with the existing movement document as being provided by the Basel Convention as Annex V B.</i></p> <p><i>Further, in line with the above, “person who arranges the transport” needs to be replaced with “exporter” in Appendix III. Similarly, “person who arranges the transport” needs to be replaced with “exporter” in Appendix II.</i></p>
<p>Norway</p>	<p>Norway strongly believe further work on the Basel Convention guideline on E-waste is needed, because there are outstanding parts of the guideline that are necessary for further use of the guideline. The guideline was adopted on an interim basis because there was no agreement on one essential part of the guideline; exports of used goods for repair. The guideline as it currently stands provides stricter provisions for export of functional used equipment for direct reuse then it does for non-functional equipment exported for repair or refurbishment. We believe this is worrying since export for repair always implies that waste is generated in the process, because non-functioning parts and components of the object will be discarded. These parts may contain hazardous substances.</p>	<p>The following are Norway's positions on the outstanding issues:</p> <p>1. Party notification as per paragraph 27 and 29</p> <p><i>Paragraphs 27 and 29 of the present guidelines address the fact that countries may or may not wish to allow imports or exports of used electrical and electronic equipment destined for failure analysis, repair or refurbishment. The paragraphs indicate that parties should notify the Secretariat of the Basel Convention in accordance with Articles 3 and 13, paragraph 2, as appropriate, of their wishes on that issue. Further work is needed to address those cases in which parties have not so notified the Secretariat.</i></p> <p>The general procedure in Norway if it is unclear whether the receiving country regards the object as waste or not, is that the exporter must contact the importing country competent authority and facility and ask for their opinion. If there is disagreement on the classification of waste or not, the object have to be exported as waste. We believe this procedure provide greater protection of both countries involved and suggest this as a way forward.</p> <p>2. Residual Life Time</p> <p>We believe that residual lifetime concept is useful and interesting, but to set specific limitations are difficult in a guideline. We therefore believe it is useful to give general guidance that used products intended for export shall have adequate residual lifetime. In our Norwegian guidance for exporters of used goods (available here: http://www.miljodirektoratet.no/old/klif/publikasjoner/2516/ta2516.pdf) we clarify, among other criteria, that in order to ship used goods from Norway in a legal way, the exporter should check that the age of the item is reasonable (relatively new technology), and the item is highly marketable. When inspecting shipments in Norway, age and appearance of the used good are part of the subjective evaluations done by inspectors when determining if an object is waste or not. We would be ready to work further on these issues with other interested parties.</p>

		<p>3. Obsolete technologies including CRTs</p> <p>We support the suggested text in para 31(b) that CRTs cannot be exported for repair, because it is an obsolete technology. We do not support a general text on obsolete technologies, as this may impair future reuse and waste minimization. But for the particular case of used CRTs which is an obsolete technology that contains a large amount of toxic lead, we believe that not allowing the export for repair as non-waste can prevent dumping of hazardous waste.</p> <p>4. Identification of relevant actors in the documentation</p> <p>This is unclear to us, and we have no further suggestion.</p> <p>5. Specific exemption for medical devices</p> <p>We support the exemption for medical devices.</p> <p>6. Specific exemption for used parts</p> <p>We support the exemption for used parts.</p> <p>7. Waste resulting from failure analysis, repair and refurbishment activities</p> <p>We are of the opinion that if the receiving repair facility cannot document environmentally sound management of the residual waste, the export for repair shall not be allowed. We believe it should be a prerequisite for exporting for repair that you can document the sound treatment of residual waste.</p> <p>Norway has previously provided some compromise text suggestions on this, and we can support text along the following line:</p> <p><i>All residual waste generated from the failure analysis, repair and refurbishment operation which is hazardous according to the Basel Convention definitions (Article 1, 1(a) and 1(b)) or its hazardous characteristics are unknown, shall be disposed of in an environmentally sound manner (ESM) in accordance with the Basel Convention. The residual hazardous waste should be taken back to the country of export unless the facility can provide conclusive proof that the residual hazardous waste can be treated in an environmentally sound manner in a facility in the importing country.</i></p>
<p>Information Technology Industry Council (ITI)</p>	<p>Submitted one document that is reproduced hereafter.</p>	



**RECOMMENDATIONS OF THE INFORMATION & COMMUNICATIONS
TECHNOLOGY SECTOR**

with regard to the

**Technical guidelines on transboundary movements of electrical and electronic
waste and used electrical and electronic equipment, in particular regarding the
distinction between waste and non-waste under the Basel Convention**
(UNEP/CHW.12/5/Add.1/Rev.1)

May 26, 2016

Thank you for the opportunity to provide the perspectives of the Information & Communications Technology (ICT) sector on the above referenced Technical Guidelines (TGs) and in particular our views on *Appendix V: Issues for Further Work*. Our sector has been productively engaged in discussions on the disposition of used electronics under the Basel Convention for over ten years, and we reiterate our commitment to working with all stakeholders to secure meaningful outcomes that (1) confront the improper movement of waste equipment while (2) preserving beneficial trade in valuable electronic products and parts for repair and reuse (hereinafter “electronic equipment”).

The ICT Sector Supports the Work Undertaken to Date and Encourages Parties to Make Use of the TGs. The interim adoption of the TGs at COP-12 represents a substantial step forward in global efforts to control improper movements of waste electronics while encouraging beneficial trade and repair of valuable equipment. The TGs are the product of extensive technical and legal negotiations among parties and stakeholders over several years and provide the first globally recognized reference for making waste/non-waste determinations for used electronics under the Basel Convention. We are optimistic that the recent translation of the TGs into the six official U.N. languages will allow governments to assess how best to reference or implement the TGs in the context of new or existing national measures for distinguishing e-waste shipments controlled under the Convention from movements of used electronic equipment destined for legitimate repair and refurbishment (non-waste).

In accordance with paragraph 3 of Decision BC-12/5, our sector recommends that governments and other stakeholders make use of the TGs and “submit...comments on their experience in so doing” ahead of COP-13. We believe that applying the TGs in practice for a period of time will generate the practical knowledge, data and experience needed to inform whether further adjustments to the current approach and criteria in the TGs are warranted. We acknowledge that some further modifications to the TGs may be needed over time to improve the management of e-waste through more consistent classification of used equipment destined for reuse. We request that the parties gain practical experience with the approach that has been agreed to at COP-12 before proceeding with deliberations on additional criteria or approaches. In our view, parties should avoid actions that could result in delaying use or application of the more robust



criteria for distinguishing used products destined for repair from e-waste, as set forth in the current TGs.

We Encourage the Parties to be Transparent with Respect to National Conditions and Requirements. The companies represented by the Information Technology Industry Council (ITI) are committed to the proper management of used equipment and compliance with all national laws implementing the Basel Convention. We encourage all parties to inform the Secretariat about any conditions they apply in relation to used equipment that should normally be considered waste or non-waste, consistent with paragraph 8 of BC-12/5. In some instances, governments and the regulated community have encountered challenges with regard to the proper classification of used equipment destined for reuse under various national laws and regulations. Increased transparency with regard to the conditions or criteria that the parties currently use at the national level for such decisions and publication of such information by the Secretariat would greatly enhance compliance with the Convention and related national measures.

To advance the expected discussions at the Open Ended Working Group (OEWG) meeting and make the best use of our collective time and resources, the ICT sector suggests that we as stakeholders direct our focus on *Appendix V: Issues for Further Work*. As appropriate, we have provided our feedback on each of these issues directly below.

The following provides comments from the ICT sector on some of the issues proposed for discussion at OEWG-10.

1. Party notifications as per paragraphs 27 and 29

Paragraphs 27 and 29 of the present guidelines address the fact that countries may or may not wish to allow imports or exports of used electrical and electronic equipment destined for failure analysis, repair or refurbishment. The paragraphs indicate that parties should notify the Secretariat of the Basel Convention in accordance with Articles 3 and 13, paragraph 2, as appropriate, of their wishes on that issue.

Further work is needed to address those cases in which parties have not so notified the Secretariat.

Guideline references	Text discussed by the COP
27, 29	[In case a country has not communicated any such information, exports to that country are only allowed if the person who arranges the transport has obtained written confirmation from the authorities in the country of destination that the equipment is not considered to be waste.]

Further work is also needed on how to reflect the information contained in the notification from countries in the declaration made by the person who arranges the transport.

Guideline reference	Text discussed by the COP
Appendix III, box 8	[the receiving facility is covered by a notification by the authorities of the country of import indicating it may receive equipment as non-waste as published by the Secretariat of the



	Basel Convention];
--	--------------------

ICT Industry Comment: We support the approach set forth in the current TGs. We encourage parties to share information on national measures concerning the definition of e-waste pursuant to Article 3 and Article 13 (2)(c) and (d) of the Convention and Decision 12/5. The ICT sector does not support an approach where parties would be obligated to affirmatively notify the Secretariat of their use of the TGs.

2. Residual life time and age of used equipment

Three texts were discussed that relate to this subject

a) When equipment normally should be considered waste

Guideline reference	Text discussed by the COP
30	[The residual life of the equipment is no longer than 1/3 of the normal life-span of this kind of new equipment.]

ICT Industry Comment: The ICT sector recognizes the legitimate concerns that many countries have regarding the import of used electronic equipment that, while still functional, may be near the end of its useful life. Our member companies do not engage in the unrestrained business of re-selling such “near end-of-life” equipment.

As a practical matter, determining the residual life of a product is very difficult and often depends on the way it was used, the conditions of use (*e.g.*, humidity) and maintenance. We therefore view this proposal as a problematic criterion for making waste/non-waste determinations.

We note that used equipment that is put back into commerce by the manufacturer (or its contracted vendor) often carries a warranty or similar guarantee. Our companies stand behind this equipment and would not consider such products to be “near end-of-life.” This may be different from brokers who sell used equipment in bulk to other brokers or middlemen, offer no warranties and have no connection with the ultimate customer.

We would encourage those parties that have experience with the adoption of residual life criteria for used equipment to share their information and experiences with the Secretariat pursuant to Decision BC-12/5.

b) Requirements for transport of used equipment destined for root cause analysis, repair and refurbishment

Guideline reference	Text discussed by the COP
31(b)	[and that the residual life of the equipment is more than 1/3 of the normal life span of this kind of equipment]



ICT Industry Comment: It would be difficult if not impossible to establish a uniform “residual lifetime” for different categories of covered equipment.

- The TGs cover a wide range of products: everything from printed circuit boards and mobile phones to multi-million dollar installed equipment. It would take years for stakeholders to conduct the research and evaluation necessary to even suggest a range of residual life for every type of product contemplated by the TGs.
- Ours is also an innovative industry. ICT products and features are constantly changing, further complicating efforts to assign some range to a category.
- Factors that may vary significantly between individual pieces of equipment:
 - o How often is the product used: 24/7 or only occasionally?
 - o How well is it maintained by the customer (if at all)?
 - o What is the environment in which it is being used? High humidity and varying temperatures can negatively impact certain sensitive electronics.
 - o Has it been upgraded or refurbished to improve its functioning and extend its use, or is it “as is”?
 - o Within the same product category, devices from certain brands may last longer than those made by low-cost competitors. Is a residual lifetime going to be calculated for every product category, and for every brand within every product category?
- It may not be possible to determine the life of parts and sub-assemblies.

c) Documentation to be provided by the person who arranges the transport

Guideline reference	Text discussed by the COP
32	[date of production of every piece (age) (excluding for spare parts or components)

ICT Industry Comment: Parties should be aware that production dates may not be available for all products.

3. Obsolete technologies, including cathode ray tubes

Requirements for transport of used equipment destined for failure analysis, repair and refurbishment

Guideline reference	Text discussed by the COP
31(b)	[Used equipment transported across borders is compliant with applicable national legislation and relevant international rules, standards and guidelines on restrictions of the use of hazardous substances [, do not contain cathode ray tubes (CRTs)]]

ICT Industry Comment: We support compliance with relevant national measures for the restriction of hazardous substances in used equipment destined for re-use but do not see such references as appropriate criteria for waste/non-waste determinations at the international

level.

While we do not have significant concerns regarding limits on the transboundary movement of individual CRT units, we do suggest that the stakeholders recognize that CRTs embedded in larger systems should be allowed to move as necessary and appropriate.

We are also concerned with the use of the undefined phrase “obsolete technologies.” We are not aware of any recognized stakeholder or other process used to determine when a technology becomes obsolete: what is no longer in demand in certain countries or regions may remain in demand in others.

We would encourage those parties that have experience implementing measures that identify and restrict the import of certain types of obsolete equipment to share information that might inform this discussion.

4. Identification of relevant actors in the documentation

Further work is needed to assess if some additional actors should be added to paragraph 32 (a) and appendix III.

Guideline reference	Text discussed by the COP
32(a)	[Name of Original Equipment Manufacturer (name and contacts of importer)]
Appendix III	<ul style="list-style-type: none"> • [Carrier] • [Importer] • [Country of export[/dispatch] • [Country of import[/destination]]

ICT Industry Comment: We encourage parties to implement the TGs using the assurances and documentation recommended in the document adopted at COP-12 and assess whether additional changes to the documentation (including the identification of additional actors or information) is needed to further the proper management of used equipment.

5. Specific exemption for medical devices

Further work is needed on specific exemptions for medical equipment in the context of transports for failure analysis, repair and refurbishment.

Guidelines reference	Text discussed by the COP
31(b)	<p>[Where used medical devices and their components¹ are sent by and to the manufacturer or a third party acting on behalf of the manufacturer, for any of the following purposes:</p> <ul style="list-style-type: none"> (i) failure analysis, diagnostic testing, (ii) refurbishment, or (iii) repair,

¹ As per definition in GHTF in SG1(PD)/N71R04.



	under a valid agreement ² and hazardous wastes resulting from these operations are shipped for environmentally sound management [to Annex VII Countries] [or to non-Annex VII countries as long as systems are in place to achieve the equivalent level of environmental protection].]
--	---

ICT Industry Comment: We recommend that any exemption provided for medical devices also be granted to ICT infrastructure systems, such as air traffic control systems, data centers, testing and measurement equipment, etc. Installed ICT capital equipment is very similar to major medical devices: both types of multi-million dollar equipment are often shipped for failure analysis, diagnostic testing, repair and/or refurbishment. It benefits the environment and is in the best interests of our government and corporate customers when major ICT manufacturers are able to transport these systems for proper evaluation and servicing or ship in replacement assemblies to extend the useful lifetime of these critical systems.

6. Specific exemption for used parts

Further work is needed on specific exemptions for used parts in the context of transports for failure analysis, repair and refurbishment

Guidelines reference	Text discussed by the COP
31	[Used parts for service and maintenance of equipment which may contain electrical or electronic components, handled in a closed circular economy for remanufacturing ³ .]

ICT Industry Comment: The ICT sector strongly supports the inclusion of an exemption for used parts to service and maintain equipment. Facilitating the movement of used parts for servicing would maximize the use of the resources that went into manufacturing the equipment, limit demand for new resources and avoid the premature generation of e-waste by keeping the equipment in service.

7. Waste resulting from failure analysis, repair and refurbishment activities

Guideline references	Texts discussed by the COP
31 (b)	[[All equipment that after failure analysis, repair and refurbishment is still unusable will be taken back to the country of export]. All residual waste generated from the failure analysis, repair and refurbishment operation which is hazardous according to the Basel Convention

² "Valid agreement": a long-term contract between the manufacturer and the third party shipping or performing the refurbishment, repair or failure analysis identifying responsibilities and procedures for the correct handling of used electrical and electronic equipment.

³ Remanufacturing is a standardized industrial process that restores used parts to fulfill a function that is at least equivalent compared to the original part.



	<p>definitions (Article 1, 1(a) and 1(b)) or its hazardous characteristics are unknown, shall be disposed of [in an environmentally sound manner (ESM) in accordance with the Basel Convention][in an Annex VII country][in [the export country or] an Annex VII country unless accompanied by a conclusive proof that the residual hazardous waste can be treated at a facility in the importing country is ESM]. Any transboundary movements necessary shall be accomplished in accordance with the Basel Convention;]</p>
31 (b)	<p>[[All equipment that after failure analysis repair and refurbishment is still unusable [must be managed in an environmentally sound manner. If the equipment cannot be repaired or refurbished [, and was exported by an Annex VII country] it should be returned[, under the full responsibility of the country of export,] to the [country of export] [exporter] [person] [if the country of export is a non-Annex VII country, it should be dealt with in an ESM and according to the principle of proximity] [or another country where an appropriate ESM facility exists in accordance with the Basel Convention.] [will be taken back to the country of export.] All residual waste generated from the failure analysis, repair and refurbishment operation which is hazardous according to the Basel Convention definitions (Article 1, 1(a) and 1(b)) or its hazardous characteristics are unknown, shall be disposed of [in an environmentally sound manner (ESM) in accordance with the Basel Convention][in an Annex VII country][in [the export country or] an Annex VII country unless accompanied by a conclusive proof that the residual hazardous waste can be treated at a facility in the importing country is ESM]. Any transboundary movements necessary shall be accomplished in accordance with the Basel Convention;]</p>
Section VI	<p>[It is recommended to facilities receiving used equipment that is not waste and is intended for failure analysis, repair and refurbishment to, as appropriate, include provisions in the contract with the person who arranges the transport that</p> <ul style="list-style-type: none"> a) used equipment that was destined for failure analysis, repair or refurbishment, but for which no failure analysis, repair or refurbishment has been conducted, b) waste generated during failure analysis, repair or refurbishment; is returned to the person who arranges the transport or disposed of in an environmentally sound manner in another country]

ICT Industry Comment: The ICT sector strongly supports the environmentally sound management (ESM) of any residual hazardous wastes (including any wastes with unknown hazardous characteristics) generated as a result of permissible failure analysis, repair and refurbishment activities. We agree that such wastes must be managed in accordance with the Basel Convention.

We support the approach now set forth in the TGs concerning the use of contracts between the person managing transport and the receiving facility to ensure ESM of residual wastes from failure analysis, repair or refurbishment activities. The use of such contracts along with appropriate documentation and feedback reports reduces greatly the risk of improper management of residual wastes.

A requirement to return residual hazardous wastes to the country from which the used



equipment originates is impractical and unnecessary. In some cases, non-OECD countries may boast better ESM facilities than certain OECD countries. Rather than prescribing arbitrary practices, the common objective of all stakeholders should be to ensure that all covered wastes are managed in an environmentally sound manner. This can be accomplished in the country that hosts the failure analysis, repair or refurbishment operations or in a nearby country if the first lacks such ESM facilities.

We are pleased to see a number of parties moving forward to implement or make use of the TGs adopted at COP-12. We are concerned, however, that some stakeholders may seek to re-open the entire document for further negotiations under the OEWG-10 work programme. Such a result would appear to be outside the mandate the COP has given to the OEWG and could further delay implementation of the consensus criteria and assurances provided in the current TGs that are critical to improving the management of used equipment and e-waste.

The COP approved the TGs on an interim basis with the clear understanding that parties and stakeholders would need to consider certain unresolved issues and consider modifications as appropriate going forward. We believe those discussions are best served by gathering information on the operation and use of the interim TGs for a period of time. Re-opening the interim TGs prematurely would not only deprive the parties of the ability to collect needed data to inform future deliberations, but it would likely delay the environmental benefits that can be gained in the near term from the prompt and consistent implementation of the TGs.

Additional information on these recommendations is available from:

Rick Goss
Senior Vice President for Environment and Sustainability
Information Technology Industry Council
rgoss@itic.org
+1-202-626-5724
<https://www.itic.org/>

附件 10 電腦設備夥伴計畫



Distr.: General
29 November 2016

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (e) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
international cooperation, coordination and partnerships:
Basel Convention Partnership Programme**

Partnership for Action on Computing Equipment

Note by the Secretariat

I. Introduction

1. In its decision BC-12/12, on the Partnership for Action on Computing Equipment, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, among other things, requested the Partnership Working Group to complete the outstanding tasks from the 2014–2015 work programme, including the revision of section 3 of the guidance document on the environmentally sound management of used and end-of-life computing equipment (UNEP/CHW.11/6/Add.1/Rev.1), dealing with transboundary movements of such equipment, following the adoption, on an interim basis, by the Conference of the Parties of the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention.¹ In the same decision, the Conference of the Parties requested the Open-ended Working Group at its tenth meeting to consider section 3 of the guidance document as revised by the Partnership Working Group and to submit it, amended as appropriate, to the Conference of the Parties at its thirteenth meeting for consideration and possible adoption.

II. Implementation

2. The Partnership Working Group and its project groups held teleconferences to discuss the revision of section 3 of the guidance document, the development of a strategy and workplan for the implementation of specific actions at the regional and national levels, a manual on the steps to establish and implement the environmentally sound management of used and end-of-life computing equipment and the finalization of pilot projects under the partnership and the development of a report on lessons learned.

* UNEP/CHW.13/1.

¹ The Conference of the Parties adopted, on an interim basis, the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention (UNEP/CHW.12/5/Add.1/Rev.1), at its twelfth meeting by its decision BC-12/5.

3. With regard to section 3 of the guidance document, the Partnership Working Group proposed to the Open-ended Working Group² that the substance of the technical guidelines referred to in paragraph 1 above not be reproduced in section 3; instead section 3 should simply make reference to it while retaining certain information (already included in the guidance document) on matters such as packaging and other things directly related to used and end-of-life computing equipment. The Partnership Working Group also proposed to withdraw the guidance on transboundary movement of used and end-of-life computing equipment developed by the Partnership in 2011,³ suggesting that it was not consistent with the proposed revised guidance document.

4. At its tenth meeting the Open-ended Working Group reviewed progress in the activities undertaken by the Partnership Working Group. In paragraphs 3 and 4 of its decision OEWG-10/9, on the Partnership for Action on Computing Equipment, the Open-ended Working Group requested the Partnership Working Group to revise section 3 of the guidance document and the draft concept for a follow-up partnership, taking into account comments made during the tenth meeting and comments submitted in writing by 15 September 2016, for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting. In paragraph 5 of the same decision, the Open-ended Working Group requested the Secretariat to prepare a draft decision on the establishment of a follow-up partnership for consideration by the Conference of the Parties at its thirteenth meeting.

5. During the teleconference of the Partnership Working Group held on 26 October 2016, some participants said that the appropriate charge for laptop batteries had been discussed in the context of the work of the Partnership and that previously drafted language on the subject should be understood as establishing an implicit criterion for the distinction between waste and non-waste referred to in the guidance on the transboundary movement of used and end-of-life computing equipment mentioned in paragraph 3 above. Other participants said that the issue was beyond the Partnership's mandate but could be considered in the context of the implementation of decision BC-12/5 on the technical guidelines referred to in paragraph 1 above.

6. No comments from Parties or others were received pursuant to paragraph 2 of decision OEWG-10/9. The draft revised section 3 of the guidance document and proposed additional changes to ensure consistency of the text throughout the guidance document, taking into account comments made during the tenth meeting of the Open-ended Working Group, are set out in an addendum to the present note (UNEP/CHW.13/13/Add.1) for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting. The full guidance document, including the proposed changes, is set out in annex I to document UNEP/CHW.13/INF/31.

7. The Partnership Working Group revised the concept note for the follow-up partnership to the Partnership for Action on Computing Equipment taking into account comments made during the tenth meeting of the Open-ended Working Group. The revisions are aimed at the strengthening of the environmentally sound management of used and waste electrical and electronic equipment at the regional and national levels taking into consideration a life-cycle approach. The revised concept note is set out in annex II to document UNEP/CHW.13/INF/31.

8. After receiving input from the meeting of the directors of the Basel and Stockholm Convention regional centres that was held from 31 October to 2 November 2016 in Geneva, the Partnership Working Group proposed that as the next step the Basel Convention regional and coordinating centres in Argentina, China, El Salvador, Indonesia, Nigeria, Slovakia, South Africa and Trinidad and Tobago, with support from interested stakeholders, take the lead and, subject to the availability of resources, coordinate the implementation of activities listed in the work programme in the concept note referred to in paragraph 7 above and report thereon to the Open-ended Working Group at its eleventh meeting and the Conference of the Parties at its fourteenth meeting. In addition, the regional and coordinating centres were invited to propose the further development of a follow-up partnership at the regional or international level, as the need arose.

9. The Partnership Working Group finalized a manual on steps to establish and implement the environmentally sound management of used and end-of-life computing equipment⁴ to provide Governments and companies with an overview of the essential elements for establishing, maintaining and strengthening the environmentally sound management of used and end-of-life computing equipment being collected, refurbished, repaired, recycled and recovered. In paragraph 6 of its decision OEWG-10/9, the Open-ended Working Group took note of the manual and recommended its

² UNEP/CHW/OEWG.10/9.

³ <http://www.basel.int/Portals/4/download.aspx?d=UNEP-CHW-PART-GUID-PACE-TransboundaryMovement-20110131.English.pdf>.

⁴ UNEP/CHW/OEWG.10/INF/13, annex III.

use by Parties and other countries, in particular those where environmentally sound management was not fully established.

10. The Partnership implemented pilot projects launched under its work programme for the biennium 2014–2015 in Burkina Faso, El Salvador and the Central American region, Jordan, the Republic of Moldova, Serbia, South Africa in cooperation with Lesotho and Namibia, and Suriname. A report on experiences and lessons learned from the pilot projects is set out in annex III to document UNEP/CHW.13/INF/31.

11. Documents developed under the Partnership and reports from face-to-face meetings of the Partnership Working Group and workshops are available on the Partnership website.⁵

12. The work of the Partnership Working Group in 2015 and 2016 was implemented thanks to generous financial support provided by the European Union, the Government of Switzerland, the African Union Commission, the Institute for Environment and Resources, the SIMS Recycling Solutions company, the Institute of Scrap Recycling Industries, the Bureau of International Recycling and TES-AMM. In addition, a number of partners made in-kind contributions to activities of the Partnership for Action on Computing Equipment, including by supporting participation in Partnership meetings and workshops and by co-chairing the Partnership Working Group and project groups.

III. Proposed action

13. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Takes note* of the progress made in the implementation of the Partnership for Action on Computing Equipment;⁶
2. *Recalls* decision BC-11/15 by which it adopted sections 1, 2, 4 and 5 of the guidance document on environmentally sound management of used and end-of-life computing equipment;
3. *Adopts*, without prejudice to national legislation, section 3 of the guidance document on environmentally sound management of used and end-of-life computing equipment and the proposed additional changes to ensure consistency of the text throughout the guidance document⁷ and decides to withdraw the guidance on transboundary movement of used and end-of-life computing equipment;⁸
4. *Invites* Parties and signatories to use the guidance document on the environmentally sound management of used and end-of-life computing equipment, as revised to include section 3 and the additional changes referred to in paragraph 3 above,⁹ and the guidelines, manual and reports produced by the Partnership Working Group;
5. *Decides* that the Partnership Working Group has successfully completed its mandate and is hereby disbanded and that any follow-up tasks that may be required in the future will be carried out by the Secretariat, with the participation of interested Parties, signatories, industry, non-governmental organizations and other stakeholders;
6. *Takes note* of the concept note on a follow-up partnership to the Partnership for Action on Computing Equipment;¹⁰
7. *Invites* interested Basel Convention regional and coordinating centres:
 - (a) To take the lead in the implementation of activities listed in the work programme set out in the concept note referred to in paragraph 6 above and, based on the work undertaken, to propose further development of the concept for a follow-up partnership to the Partnership for Action on Computing Equipment at the regional or international level, as the need arises;

⁵ <http://www.basel.int/Implementation/TechnicalAssistance/Partnerships/PACE/Overview/tabid/3243/Default.aspx>.

⁶ UNEP/CHW.13/13.

⁷ UNEP/CHW.13/13/Add.1, annex.

⁸ <http://www.basel.int/Portals/4/download.aspx?d=UNEP-CHW-PART-GUID-PACE-TransboundaryMovement-20110131.English.pdf>.

⁹ UNEP/CHW.13/INF/31, annex I.

¹⁰ UNEP/CHW.13/INF/31, annex II.

(b) To report, through the Secretariat, on the implementation of paragraph 7 (a) above to the Open-ended Working Group at its eleventh meeting and the Conference of the Parties at its fourteenth meeting;

8. *Encourages* Parties and other stakeholders to make financial and in-kind contributions to support the Basel Convention regional and coordinating centres in their efforts to implement the activities identified in paragraph 7 (a) above.

附件 11 關於越境轉移需符合公約雙邊多邊及區域協定之規定



UNEP/CHW.12/INF/56

UNEP/FAO/RC/COP.7/INF/40

UNEP/POPS/COP.7/INF/60



**Basel Convention on the Control of
Transboundary Movements of Hazardous
Wastes and Their Disposal**

Distr.: General

23 April 2015



**Rotterdam Convention on the Prior
Informed Consent Procedure for Certain
Hazardous Chemicals and Pesticides in
International Trade**

English only



**Stockholm Convention on Persistent
Organic Pollutants**

**Conference of the Parties to the
Basel Convention on the Control
of Transboundary Movements
of Hazardous Wastes and
Their Disposal
Twelfth meeting**
Geneva, 4–15 May 2015
Items 4 (e) (iv) and 7 of the provisional
agenda*

**Matters related to the
implementation of the Convention:
international cooperation,
coordination and partnerships: other
international cooperation and
coordination**

**Conference of the Parties to the
Rotterdam Convention on the
Prior Informed Consent Procedure
for Certain Hazardous Chemicals
and Pesticides in International
Trade
Seventh meeting**
Geneva, 4–15 May 2015
Items 5 (f) and 8 of the provisional
agenda**

**Matters related to the
implementation of the Convention:
international cooperation and
coordination**

Other matters

**Conference of the Parties to the
Stockholm Convention on
Persistent Organic Pollutants
Seventh meeting**
Geneva, 4–15 May 2015
Items 5 (k) and 8 of the provisional
agenda***

**Matters related to the
implementation of the Convention:
international cooperation and
coordination**

Other matters

* UNEP/CHW.12/1.

** UNEP/FAO/RC/COP.7/1.

*** UNEP/POPS/COP.7/1.

Submission by the United Nations Environment Programme on a progress report on the UNEP/UNEA Resolution 1/12 on the relationship between the United Nations Environment Programme and multilateral environmental agreements

Note by the Secretariat

The annex to the present note sets out a progress report on the UNEP/UNEA Resolution 1/12 on the relationship between the United Nations Environment Programme and multilateral environmental agreements, submitted by the United Nations Environment Programme. The present note, including its annex, has not been formally edited.

Progress report on the UNEP/UNEA Resolution 1/12 on Relationship between the United Nations Environment Programme and multilateral environmental agreements

Note by the Executive Director of UNEP

Background

1. Pursuant to paragraph 29 of Governing Council decision 27/13 of 22 February 2013 and bearing in mind paragraph 89 of the outcome document of the United Nations Conference on Sustainable Development, directed to Parties to multilateral environmental agreements “The future we want”, which, inter alia, encourages such parties to consider further measures to enhance coordination and cooperation among such agreements as well as between those agreements and the United Nations system in the field, the Executive Director of UNEP presented a report on the *Relationship between the United Nations Environment Programme (UNEP) and multilateral environmental agreements* to the first session of the United Nations Environment Assembly of UNEP (UNEA), UNEP/EA.1/INF/8. The report to UNEA-1 builds upon earlier documents presented to the 26th and 27th sessions of the UNEP Governing Council (UNEP/GC.26/INF/21, UNEP/GC.27/6 and UNEP/GC.27/INF/20).

2. The report was prepared in consultation with the secretariats of the following multilateral environmental agreements: Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Convention on the Conservation of Migratory Species of Wild Animals (CMS); Convention on Biological Diversity (CBD); Vienna Convention for the Protection of the Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer (OC/MP); Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (BC); Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (RC); Stockholm Convention on Persistent Organic Pollutants (SC); Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention); Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention); Amended Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean (Nairobi Convention); and Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region (Abidjan Convention).

Task Team on effectiveness of administrative arrangements and programmatic cooperation

3. UNEA Resolution 1/12 took note of the report by the Executive Director, welcomed the step taken to establish a Task Team on the effectiveness of administrative arrangements and programmatic cooperation between the United Nations Environment Programme and UNEP-administered Convention Secretariats and requested the Executive Director to submit a final report to the next session of the open-ended CPR, with a view to putting the issue before UNEA-2. In addition, the Secretariat was also requested to submit progress report of the work of the Task Team and its two working groups to the relevant conferences of the parties to be held in the period before the second session of the United Nations Environment Assembly.

4. The Task Team, established by the Executive Director and comprising representatives of the secretariats of UNEP-administered Convention Secretariats and the relevant offices of the UNEP secretariat was established in February 2014 and has since held four meetings. The Deputy Executive Director chairs it and the Executive Secretary of the Convention on Migratory Species serves as Vice-Chair.

5. The Task Team established two working groups to facilitate its work. They are, namely, the Working Group on administrative arrangements chaired by the representative of the CITES secretariat and the other, Working Group on programmatic cooperation chaired by a representative of the CBD secretariat.

6. The Task Team was established to fulfill two objectives. One, on the administrative arrangements, the Team is intended to clarify the administrative relationship between UNEP, UNON, UNOG and the conventions secretariats; identify the range of administrative services required by the convention secretariats while assessing if they are currently provided as well as identify service providers for specific services as well as funding sources for procuring such services. Task Team is also intended to identify new UN system-wide administrative requirements (IPSAS) as well as the new UN Secretariat-wide enterprise resource planning solution (namely Umoja¹) including options for, and implications of, implementing these requirements for convention secretariats. Two, on strengthening programmatic cooperation between UNEP and the convention secretariats, the Team is intended to identify priority areas for programmatic cooperation based on directions from the relevant governing bodies and general and specific mandates including identifying thematic and functional areas for potentially greater synergies.

7. Since the inception of the Task Team, a series of consultations and meetings have been held within the two working groups constituted under the Task Team. In addition, the full Task Team has met four times and provided strategic and substantive guidance to the working groups as well as discussed and addressed current issues of relevance, such as the modalities/contingencies for the implementation of Umoja for the UNEP-administered Convention Secretariats.

8. The two working groups are currently finalizing their preliminary reports to the Task Team. The different set of reports so far produced by the working groups highlight a very positive spirit of cooperation across the various offices and encouraging progress in light of the directions given by Member States to UNEP in UNEA Resolution 1/12.

9. The programmatic working group developed a comprehensive and inclusive table of ongoing collaboration as well as possible future collaboration intended to not only inform the report to UNEA-2 but enable a strategic consideration of the Task Team's recommendations in ongoing planning processes within UNEP, such as the development of the next Programme of Work (PoW) and the next iteration of UNEPNEPon of UNEPn of UNEPive and i

10. On the side of the administrative working group discussions equally involved a number of different offices including UNEP's Office for Operations (OfO) and, as indicated, the work of the Task Team in this area has already resulted in a review and assessment of current administrative services, the identification of existing administrative arrangements and those under development (e.g. memoranda of understanding), a useful exchange of information surrounding the implementation of Umoja and specific needs to assist UNEP-administered MEA Secretariats, particularly in the area of training, human resources and general preparedness. The working group has also looked at recommendations for improving the effectiveness and efficiency of administrative arrangements.

Roadmap towards the second session of United Nations Environment Assembly

11. The final reports from the two working groups will be submitted to the Task Team for its consideration through the Office of the Deputy Executive Director, its Chair, before the end of April 2015 and a full report of the Task Team will be submitted to the Executive Director by May 2015 and in June 2015, the Executive Director intends to hold a consultative meeting with the heads of the convention secretariats to review and consider the final report and recommendations from the Task Team.

12. A draft report, as mandated by UNEA Resolution 1/12 covering the relationship between the United Nations Environment Programme and multilateral environmental agreements will then be presented to the annual sub-committee meeting of the CPR in October 2015 and for further review at

¹ UMOJA is an administrative reform initiative designed to help the United Nations operate more effectively by integrating and streamlining business processes that manage financial, human and physical resources within a single global solution for the entire Secretariat. It will provide the UN with modernized business processes and an Enterprise Resource Planning (ERP) system namely SAP which stands for Systems, Applications and Products in Data Processing. It will provide a financially integrated and robust centralized system.

the open-ended CPR in February 2016 and finally for consideration at the the second session of the UNEA in May 2016.

13. In line with UNEA Resolution 1/12, the Secretariat will continue to provide progress updates on the Task Team to relevant conferences and meetings of parties to be held in the period before the second session of the UNEA, including the BRS COPs in May 2015. So far updates have been provided to relevant CoPs and other related meetings under, *inter alia*, the CBD CoP 12, CMS CoP 11 and Ozone Convention CoP 10 and its CoP/MoP 26 in October and November 2014 respectively.

附件 12 審查並檢視附件一、三、四、九文件之意見報告



Distr.: General
30 January 2017

English only

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (a) (ii) of the provisional agenda *

**Matters related to the implementation of the Convention:
strategic issues: follow-up to the Indonesian-Swiss
country-led initiative to improve the effectiveness of the
Basel Convention**

**Review of Annexes I, III and IV and related aspects of Annex IX
to the Basel Convention**

Note by the Secretariat

As referred to in the note by the Secretariat on the follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention (UNEP/CHW.13/4), the annex to the present note sets out the report on the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention developed by Canada in consultation with the small intersessional working group on legal clarity, which includes an analysis of the views received from Parties and others on the concept paper¹ developed by Canada. The report is made available as submitted by Canada with minor formatting modifications. The present note, including its annex, has not been formally edited.

* UNEP/CHW.13/1.

¹ <http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>.

Annex

Report by Canada on the review of Annexes I, III and IV to the Convention and related aspects of Annex IX to the Convention

Introduction

1. Canada, as lead country for the review of Annexes I, III and IV to the Convention and related aspects of Annex IX (entry B1110) to the Convention, is pleased to submit this report for the consideration of the Conference of the Parties at its thirteenth meeting (COP13). It was prepared with the assistance of the Secretariat to the Basel Convention and in consultation with the Small Intersessional Working Group on Legal Clarity.
2. Canada would like to thank all Parties and others who responded to the concept paper and questionnaire. We recognize the importance of this work as these Annexes are the foundation of national legislation around the globe and the means to make the international system that is the Basel Convention work effectively. Information submitted was detailed and well supported the preparation of this report and proposal for a path forward for the consideration by Parties at their COP13 meeting in April 2017.
3. The report is organised in five parts: (1) a brief background section outlining the mandate received by COP and the Open-Ended Working Group (OEWG) and, the activities undertaken since the tenth meeting of the OEWG (30 May to June 2, 2016); (2) the analysis of responses pertaining to the objectives, the process, manner of work and key considerations for the review; (3) the analysis of responses pertaining to Annexes I, III, IV and IX (B1110); (4) conclusions and proposals for a way forward, and; (5) appendices presenting a compilation of proposals by respondents for each of the Annexes as a starting point for the review work.

Part 1. Background

4. By decision BC-12/1 the twelfth meeting of the Conference of the Parties decided, among other things, to initiate a process for the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention, taking as a basis the legally binding options identified in section II of annex II to document (UNEP/CHW.12/INF/52) on providing further legal clarity.
5. By decision OEWG-10/8, OEWG10 welcomed, among other things, the offer of Canada to serve as lead country of the review until COP13. As mandated by OEWG, Canada developed a concept paper to facilitate the submission of views by Parties and others on the review of the Annexes. The concept paper was made available by Canada in the six languages of the United Nations (UN) and sought views on the objectives of the review, the process to conduct the review and specific issues under each Annex (IV, IX (B1110), I, III).
6. Four regional webinar sessions were hosted by Canada, in September 2016, in collaboration with the Secretariat of the Basel Convention, in order to present the concept paper and provide an opportunity for interested Parties from all UN regions to raise questions or provide views to Canada on the concept paper and preparation of the report.
7. As of December 15, 2016, 31 responses had been received in all six UN languages representing 27 Parties, the European Union and its members states (28 Parties) and 3 other organisations: Afghanistan, Azerbaijan, Burkina Faso, Burundi, Canada, Chile, China, Colombia, Egypt, El Salvador, European Union and its member states, Hungary, India, Islamic Republic of Iran, Libya, Madagascar, Malaysia, Mozambique, New Zealand, Norway, State of Palestine, Peru, Qatar, Russian Federation, South Africa, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of), Basel Action Network, International Maritime Organization and Organization of the Black Sea Economic Cooperation.¹

Part 2. Outcome of Views on the objectives, process & manner of work

I. objectives of the review

¹ See

<http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>

8. Broad support was expressed for the three objectives proposed in the concept paper:
- Address conflicting or overlapping provisions in the Convention;
 - Improve/update the description of wastes and disposal operations within the scope of the Convention; and
 - Improve environmental controls by expanding the scope of the Convention to include new waste streams and/or new disposal operations in order to protect human health and the environment.

While the majority supported these specific objectives, one respondent proposed to merge the above objectives into one, as follows:

"Review annexes I, III, IV and IX to eliminate inconsistencies or discrepancies, improve and/or update the descriptions and lists, and improve the environmental controls."

9. Many respondents suggested introducing an overarching objective for the review that reflects the core objectives of the Convention to protect human health and the environment against the adverse effects of hazardous wastes.

10. One respondent proposed to arrange the proposed objectives into two sets for each of the review of Annex IV and related aspects of Annex IX (entry B1110), and for Annex I and III, in order to better relate the objectives to the purpose of specific Annexes. For example, the review of Annex IV and related aspects of Annex IX (entry B1110) relates to the distinction between waste and non-waste, while the review of Annex I and III relates to the distinction between hazardous wastes and non-hazardous wastes.

"For Annex IV and the related aspects in Annex IX:

- *Improve/update the description of disposal operations in Annex IV;*
- *Improve environmental controls by including additional disposal operations that occur in practice or could occur in practice in Annex IV; and*
- *Clarify the descriptions in Annex IV and in Annex IX (B1110) to address conflicts or overlaps.*

For Annex I and III, we suggest the following objectives:

- *Improve/update the description of categories of wastes in Annex I and the list of hazardous characteristics in Annex III;*
- *Improve environmental controls by including any additional categories of wastes in Annex I and any additional hazardous characteristics in Annex III that occur in practice; and*
- *Clarify the descriptions in Annexes I and III to address conflicts or overlaps."*

11. Several other useful points were raised to bring more clarity to the intent of the review and support the work ahead:

- For objective three it was suggested to remove the reference to "expanding the scope of the convention" on the basis that the change in scope could be an outcome of the review rather than an objective itself;
- For objective 2, "recovery operations" should be added following the reference to disposal operations;
- One respondent underlined the importance of synergies between the Basel, Stockholm, Rotterdam and Minamata Conventions and suggested, as an objective, to look at terminology used by these four Conventions to inform the review of Basel Annexes. This could allow for some alignment in the use of similar language; and
- Some respondents referred to technical guidelines as a useful mean to achieve greater clarity in the application of the Annexes. This should be kept in mind while conducting the review of the Annexes.

II. Process for the review (Post COP-13)

A. Working group

12. There is broad support for a working group to be mandated to conduct the review of the Annexes post COP-13. While some Parties indicated their preference to see an existing working group undertake the work, such as the Small Intersessional Working Group on legal clarity, others favoured the establishment of one or two new working groups (one for Annex IV and related aspects of Annex IX

and one for Annexes I and III). One respondent indicated that small regional ad hoc working groups could be established with representation from the five UN regions to work on thematic areas of the review. Another highlighted the importance of having one working group to ensure continuity between OEWG and COP meetings and consistency in analysis and approach for the review as work proceeds.

13. Others suggested that a lead country or countries could be nominated to oversee the activities of the working group or to lend support to the Small Intersessional Working Group on legal clarity, if the mandate was assigned to it.

14. Several respondents highlighted that the scope of work and workplan will be key to determine what kind of group should be created and suggested that at this stage, various options be advanced for the consideration of the COP.

B. Role of the Open-Ended Working Group (OEWG)

15. There is broad agreement that the OEWG should oversee and guide the work on the review of the Annexes. However, many respondents stressed that while the OEWG should be accountable for bringing recommendations to the COP, it needs to be supported by a dedicated working group to ensure that substantial work progresses effectively intersessionally.

C. Composition of the working group

16. Most respondents indicated their preference for a working group composed of representatives of Parties and open to observers' contributions. Some respondents highlighted that Basel Convention Regional Centers, experts from customs ministries, as well as signatories to the Convention should assist the working group in its work.

17. Equal support was expressed for an open-ended versus a limited working group in its composition. However, this is not the central concern of most respondents but rather who should be allowed to participate in the group. Many respondents stressed the importance of having a working group composed of experts with legal and technical knowledge in the implementation of the Convention and practical experience in the application of the Annexes in domestic operations.

D. Mandate, work plan and terms of reference of the working group

18. There is broad agreement that the COP should further confirm details about the mandate by adopting the objectives for the review, terms of reference and initial workplan of the working group. Two respondents suggested that the COP should adopt only the mandate and that the work plan and terms of reference be developed by the working group in accordance with the mandate and objectives of the review adopted at COP.

19. One respondent indicated that the mandate of the working group, or mandates in case of two groups, should be consistent with decision BC-12/1 and OEWG-10/8, and elaborated taking this report into consideration.

20. Other useful remarks pertaining to how to proceed with the work include: (1) legal and technical information should first be collected and made available before the working group starts its work; (2) a solid base of information is essential to inform the work ahead and Parties should be consulted and contribute to the collection of information; (3) the review process should be well structured and use an evidence-based approach; and (4) the review of the Annexes should be based on the legal requirements of the Convention and procedures articulated in its Article 17 and 18.

21. Many other ideas were expressed regarding the manner of work and how to deliver on the proposed objectives as follows:

- Develop an approach to undertake the review in a structured and evidence-based manner (e.g. supported by references to scientific information);
- Review technical and legal difficulties faced by Parties in the implementation and interpretation of definitions and guidelines;
- Consult with Basel Parties and others and take into consideration comments to inform the review;
- Consult relevant documentation such as the glossary of terms and technical guidelines;
- Prepare an analysis document for Parties' consideration based on submissions received from a consultation process;
- Prepare a report, including recommendations on whether amendments to Annexes are needed;

- Elaborate proposals for modifications/amendments to Annexes I, II, III and IV, including corresponding modifications of Annex VIII and IX; and
- Identify financial resources to support the work of the working group.

E. Studies and documentation to support the review

22. Broad support was expressed for the conduct of two studies to facilitate the review of the Annexes:

- A study analysing various Parties' legislation relevant to Annexes I, III, IV and IX, and;
- A study on the use of disposal operations in practice (including both final disposal and recovery operations).

23. One respondent expressed reservations about the study analyzing existing legislation and proposed, as a better approach, to conduct a limited survey of selected Parties to identify specific problem areas encountered by them. Another mentioned that current national legislation may not be as stringent as required to protect the environment and advanced that the review should not rely solely on existing legislation.

24. One respondent suggested that subject to the availability of resources and cooperation from Parties, case studies could be added to the legislative study, as the use of Annexes in legislation does not always reflect their implementation in practice.

25. The financial implications for the conduct of the two studies referred to in paragraph 22 were raised by one respondent in addition to who would be appointed to conduct these (e.g. consultant or Secretariat). On a similar note, one respondent suggested that these studies be undertaken by the working group to be established at COP as part of their workplan.

26. A proposal was made to hold seminars on specific regional or national topics and solicit and search out regional and country-specific comments based on findings from the analysis of national legislation relevant to the Basel Annexes. Questions and suggestions at the regional and national levels relating to Annexes of the Convention could be prepared to allow for meaningful submission of information by Parties and others and oriented towards the agreed upon objectives for the review.

27. Two respondents stated that a more detailed questionnaire following on the responses to the concept paper could be prepared to allow Parties and others to provide more detailed information.

28. Other documents identified as useful to inform the review included:

- Annual national reports by Parties;
- Basel Convention technical guidelines;
- Parties' national studies on the use of disposal operations;
- Basel Convention glossary of terms;
- Text of the Stockholm, Rotterdam and Minamata Conventions;
- This report to the COP pursuant to OEWG decision 10/8; and
- Globally Harmonized System of Classification and Labelling of Chemicals (GHS), also known as the "Purple Book".

III. level of priority and financial aspects

29. All respondents identified the work on the review of the Annexes as a high or medium priority. One respondent suggested that for the next biennium (2017-2019: leading to COP14) the review of Annex IV and related aspects of Annex IX should be a high priority and the review of Annex I and III a medium one.

30. The review of the Annexes was acknowledged by many as critical on the basis that the Annexes are an integral part of the Convention text. As such, work to improve or modernize these parts should not be dependent on the availability of voluntary funding. It was suggested to assess the best way to include this work in the proposed core budget for the Convention.

31. Nevertheless, the need for additional voluntary funding was also highlighted as important to supplement the core budget allocation as the core budget may be insufficient to fully meet the needs of the future workplan.

32. One respondent stressed that this issue could only be discussed after the scope and manner of work is clarified (e.g. whether consultants should be engaged, need for face-to-face meetings, regional consultations, case studies, etc.), as well as the development of cost estimates for this work by the Secretariat. One respondent proposed the creation of a financial framework.

IV. other views submitted by respondents

33. Some respondents underlined the complexity of the Basel Convention and the challenges in having a clear and definite distinction between non-waste, waste, and hazardous waste and consistent application of the waste definition in Article 2 in conjunction with Annexes I, III and IV. An in-depth understanding of the Basel waste definition and its linkages to the Annexes will be a pre-requisite for experts appointed to work on the review of the Annexes.

34. Few respondents made references to a possible review of Annex VIII and Annex II. At this time, the review of these Annexes remain outside of the mandate that was given in decision BC-12/1 for the review of the Annexes; however, it was noted that if the best solution to an issue in Annex I is a revision in Annex VIII, then this proposal could go forward even if the focus of the review was not Annex VIII at the outset. The impacts and linkages of any proposed change to any of the Annexes will need to be closely assessed regardless of the scope of the review.

35. One respondent mentioned that translation of documents and language used in meetings will be important aspects for the review of the Annexes as many technical terms will be used and participation in the work is expected to be challenging. Another suggested looking at the translation of the Convention text in Spanish to address the term "dispersable".

36. The technical, legal and scientific pace of implementation of the Basel Convention can vary significantly within a country. In addition the pace of implementation can be vastly different between developed and developing countries. It was mentioned that in developing countries, particularly on the African continent, the legal frameworks are fragile and sometimes insufficient. These factors should be considered when proposing amendments.

37. The Annexes should be regularly reviewed (at least every five years) and updated as new methods and technologies for the classification and treatment of wastes are developed. Many of the terminologies used in the text and Annexes to the Basel Convention are also outdated.

38. Junior administrators should be involved in the work to review the Annexes.

39. Financial assistance and capacity building is necessary to achieve the overall goal of the Convention and all decisions should be made by consensus.

Part 3. Outcome of Views on Annexes I, III, IV and IX (B1110)

40. The detailed submissions of respondents pertaining to the Annexes shed light on the challenges in the actual implementation of the Convention. Overall the responses indicate that work is needed to improve clarity of intent, to modernize the entries and support a more consistent interpretation of the Annexes.

41. Bearing in mind that an approach to undertake the review in a structured and evidence-based manner (e.g. supported by references to scientific information) has yet to be developed, the specific proposals brought forward by respondents for possible changes to the Convention remain suggestions to orient the future work on the Annexes. In consolidating the information submitted, it is important to note that Canada did not conduct a scientific assessment of the proposals, which should come at a later date, if Parties so decide.

A. Annex I

42. Various respondents indicated that a detailed assessment is needed to identify possible changes to Annex I. Based on responses received it is safe to conclude that categories of wastes are missing, some of the current ones are too broad and others overlap with each other.

43. While most respondents agree that waste streams are missing from Annex I, many others were unsure and one indicated that the list is currently complete. Proposals advanced by one or several respondents for possible new waste categories (waste streams) or needing further assessment are:

- Aluminum, aluminum compounds;
- Biohazards;
- Brominated flame retardants;

- Copper and zinc in elemental form;
- Electrical and electronic assemblies;
- Lithium;
- Nanomaterial;
- Other organic constituents (not listed on Annex I);
- Other inorganic constituents (not listed on Annex I);
- Ozone depleting substances;
- Spent catalyst;
- Others: endocrine disruptors, e-waste and waste arising from production or use of electronics, fibers and dusts which are capable of causing lung damage when inhaled (e.g., silicosis), other waste consumer items, oxidizing waste, pneumatic tyres, powdered toners, silicon compounds and waste, and some rare earth metals.

44. One respondent made reference to the former EU Directive on Hazardous Waste (91/689/EEC) which contained additional wastes and constituents which may be reviewed. Other sources of classification such as the OECD Decision C(88)90/FINAL² in addition to the list of additional wastes (C codes) in the EU submission to question 32 in Appendix A, should be examined to inform the review of Annex 1.

45. No respondent suggested the deletion of a waste category. However, several respondents identified conflicting/overlapping categories where a waste can be categorized under multiple Y codes. As a result, a concern was expressed that the categories of Y codes are broad making it difficult to classify and derive national waste generation statistics because of the risk of double counting wastes if they are identified under more than one waste category (waste streams/Y code).

46. One respondent suggested that all waste streams be reviewed while others identified specific ones such as:

- Y1 is a broad category for clinical wastes and many of them could also be included in other waste categories also; reference could be made solely to wastes with a biological/infectious risk;
- Y3 can be interpreted as a component of Y1;
- Y5, Y17 and Y18 should be updated;
- Y10 can be viewed as a component of Y6;
- Y12 and Y13 appear to be used for the same waste (e.g. paint);
- To update Y29 (mercury, mercury compounds), new Y codes could be added to differentiate between different types of mercury waste (e.g. wastes consisting of mercury or mercury compounds, waste containing mercury or mercury compounds, waste contaminated with mercury or mercury compounds);
- For Y31 and Y45 there is confusion regarding their applicability to ozone depleting substances;
- Y45 (organohalogen compounds) can trigger many waste streams to be classified as hazardous such as the brominated and fluorinated hazardous waste; and
- E-wastes are captured through multiple codes from Y19 to Y45.

47. It was suggested to include concentrations or limits of contaminants that would trigger the hazardous waste definition when possible (e.g. de minimis values).

48. Many respondents were unsure if descriptions of certain waste streams should be updated while some respondents stated that updates and clarifications were necessary. Only one respondent disagreed and felt that waste descriptions did not need updating. One suggestion was to take into account the results from the two proposed studies referred to in paragraph 22 when making changes.

² (see

49. Two documents were recommended for reference for adding new waste streams including Schedule II of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 notified by India and the German Basel National Report, 2009 that referred to the EU Directive on Hazardous Waste (91/689/EEC).

50. Only a few respondents felt that conflicting text was present in this Annex while most were uncertain or did not identify any conflict. A respondent stated that conflicting text can occur if an object is considered a “product” to some and a “waste” to others. Greater time was needed to assess the Annex expressed one respondent while another stated that as the Annex is updated conflicting text may arise.

B. Annex III

51. Many respondents agreed that hazard characteristics are missing from Annex III; some respondents were unsure and a few suggested that the list was complete. One respondent suggested that the proposed studies referred to in paragraph 22 could contribute to such assessment. Nevertheless, the broad range of submissions illustrates the necessity for a well-structured and rigorous science-based approach in order to successfully make progress to achieve the objectives of the review.

52. Several additional characteristics were proposed such as; acute toxicity, bioaccumulating substances in humans, clastogens, combustible substances, cytotoxicity, endocrine disruptors, flammable and inflammable gases, genotoxic, germ cell mutagenicity, insensitive explosives, ozone layer hazards, reproductive toxicity, respiratory or skin sensitivity, self-heating substances, self-reactants, single and repeated exposure toxic substances, substances releasing toxic gas with contact from acids, and teratogens. One respondent expressed specific concerns about the absence of genotoxicity and that substances may be intentionally genetically modified or may become genotoxic from their use or release into the environment due to their clastogen properties.

53. Regarding potential conflicting text, equal numbers of respondents did not see any conflicts or were unsure. A few respondents identified the need to examine the relationship between some H codes. As well, some expressed concerns with regards to completeness and clarity of descriptions for H12, H13 codes in relation to ozone-depleting substances, and for H4.2, H5.1, H6.1 and H11.

54. Most respondents agreed with harmonizing certain hazardous characteristics with the Globally Harmonized System of Classification and Labelling of Chemicals (GHS), with some respondents unsure about the necessity of changes and one respondent being against the harmonization. The Basel characteristics should correspond to the GHS, but descriptions not covered by the GHS, such as H10 and H13, should remain under Basel. Another respondent highlighted that the alignment with the GHS would improve clarity and facilitate transboundary movement of certain categories of waste destined for resource recovery plants or manufacturing.

C. Annex IV

55. There is broad agreement that Annex IV is to be reviewed in order to update the lists of the operations and their associated description, if necessary. One respondent invited further thinking on the possibility of whether the lists of operations could be made "non exhaustive lists" while another invited the review process to consider disposal operations currently not listed in the Basel Convention but recognized by some Parties in their national legislation.

56. The close links between Annex IV and the waste definition of the Basel Convention was mentioned by several respondents. For some, it is important for Annex IV to clearly identify environmentally sound, controlled and legal operations as well as unsound, uncontrolled or illegal disposal operations. Opposing points of views were expressed by other respondents who questioned whether disposal operations not environmentally sound or not used any more should be removed from the Annex.

57. Most respondents agreed that a clearer distinction between Annex IV.A and IV.B is needed. The proposed approach or means to achieve this clarity varied among respondents. Proposals advanced by one or several respondents, are summarized below:

Caption text

- Simplify the caption text of Annexes IV.A and IV.B, by removing the current text and changing it to: Annex IV.A: "*final disposal operations*", Annex IV.B: "*recovery operations*". This approach would remove the term "direct re-use" from the both caption texts and therefore resolve ambiguity around its interpretation. However, it was raised that some operations in Annex IV.A are not all final operations or all recovery operations for Annex IV.B such as D15: storage pending any operations in section A;

- Leave the text of the caption texts of Annexes IV.A and IV.B as is and add the terms "*final disposal operations*" and "*recovery operations*" at the beginning;
- Remove "direct re-use" from the caption texts of Annexes IV.A and IV.B on the basis that the nature of operations performed under Annex IV.A does not lead to the direct reuse of the waste. For Annex IV.B reference to "direct re-use" is confusing as direct reuse only occurs if no operations from Annex IV.B are necessary. Removing "direct re-use" would be consistent with the definition of this term in the glossary of terms;
- Remove "direct re-use" and add "reuse" in the caption text of Annex IV.B. The applicability of the waste definition for waste destined for reuse would need to be clarified.

Look into the language of Annex IV.A and IV.B "*lead to the possibility of resource recovery ...*" versus the activity of mining landfills to ensure clear language is being used and does not lead to an environmental problem.

Introductory text

- As a result of a simplified caption text (final disposal operations and recovery operations), expand the introductory section to explain the nature of the operations and their intent. Add definitions of terms that are not already defined in the Convention, taking into consideration definitions from the glossary of terms. Definitions with supporting explanatory notes were proposed:

Final disposal: "Any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy".

Recovery: "Any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy".

Explanatory note: Recovery operations make use of resources as they will obtain some useful benefit from the waste, either by bringing it back into productive use or recovering energy from it (see Glossary of terms, explanatory note (e) under "Recovery").

- Revised text was proposed for the introductory section:

Annex IV.A: "Section A encompasses operations used for the final disposal of wastes which are not destined for recovery".

Annex IV.B: "Section B encompasses operations used to recover or recycle wastes which would have been destined for operations included in Section A".

58. Several other useful points were raised:

- The kind of wastes to be disposed should be taken into consideration when preparing simplified language for the caption and introductory text of Annex IV. Care should be taken to ensure changes to Annex IV result in harmonized language between Annex IV.A and IV.B.
- One respondent stated that the concept of solid waste includes the notion of space and time. Direct reuse of waste (solid scrapped material) can be viewed as a process by which the status of the material can shift as it becomes a useful product at different moments in time and in different locations. Whether or not a solid waste item can be directly reused as a useful product is the decision of the importing country, determined by the conditions and standards established in each importing country, and not a decision of the exporting country.
- The same respondent also mentioned that the distinction between Annex IV.A and IV.B was clear and no changes should be made on the basis that "disposal" is a key element of the definition of waste under the Convention and so reflected in many aspects of its work.

Disposal operations

59. There is broad support that all disposal operations in Annex IV are to be individually looked at to assess their usefulness, ensure that they are described in a way that reflects how they occur in practice, and avoid overlapping descriptions of entries. The review should also consider if new entries are needed. The concept paper brought attention to how terms are currently described in Annex IV and whether definitions should be introduced. Comments were received on both the ideas of defining terms and on improving the current descriptions.

60. While many respondents indicated that disposal operations were missing in Annex IV, many others were unsure and few respondents consider that the list is complete. Although all operations should be assessed, the following ones have been specifically noted as requiring a review:

- D1 versus D5: It was suggested to refer to D1 in situations such as the illegal deposit of hazardous waste onto land or a controlled dump site. On the other hand, D5 should be referred to for built (engineered) sites such as landfills for the final disposal of hazardous and other wastes;
- D2: Clarify if this refers to in-situ treatment only. Bio-remediated soil may be used as backfill in the construction of buildings and roads;
- D10 and D11: Should be elaborated to ensure measures are taken to ensure no disposal of by-products (ash etc.);
- D13 overlap with D8 and D9;
- D14, D15, R12, R13: These are not disposal operations themselves but rather part of the cycle of disposal operations;
- R1: Clarification in relation to the Co-Processing of hazardous waste;
- R4: Clarification to make a distinction between heavy metals from metallic metals;
- R7: Should be more precise and technical guidelines could be developed;
- R9: The term "reuse" conflicts with the understanding of "reuse" in the Glossary of terms; Change "used oil re-refining" to "recovery of used oil". The other reuses of previously used oil should be clarified;
- R1 versus D10 and D11;
- R1 versus R9;
- R3 versus R8;
- R4 versus R8;
- R6 versus R3 and R5;
- R10 versus D2;
- R12 versus R13 as they appear to cover the same operations. Technical guidelines could be developed;
- R11 may be redundant as the ordinary use of a material may not be seen as recovery operation in a non-environmentally sound manner, e.g. into water bodies etc; and
- R13 needs clarification for the terms "storage" and "accumulation" in relation to its mirror entry D15.

61. Many respondents were unsure if certain disposal operations should be merged together or deleted but some respondent identified the following:

- D4 and D6 should be merged;
- D11 and D7 could possibly fall under the purview of the International Maritime Organization and the MARPOL Convention³, and as such may be better regulated under those Conventions;
- D14 to clarify if D14 should be kept as a separate operation, taking into consideration that there are no R operations for repackaging; and
- D1, D3, D4, D6 and D7 should be deleted on the basis that they are not environmentally sound.

62. Mixed responses were submitted on the need to further define disposal operations of Annex IV. While some respondents suggested defining all operations many did not see the need or were unsure. A respondent suggested an approach to provide further details on operations via footnotes in the Annexes. The following operations of Annex IV have been specifically identified as in need of fuller descriptions (or possibly a definition or footnote adding details):

- D1, D5, D9;

³ MARPOL:

- R2, R9 and R12 (for the term exchange);
 - Elimination, exploitation;
 - Recovery, recycling, reclamation, regeneration, reuse; and
 - Recoverable Hazardous Material.
63. Finally, proposals were made to add new disposal operations:
- Backfilling;
 - Preparatory operations such as washing, shredding or baling;
 - Recovery or regeneration of a substance not otherwise covered in the other recovery operations;
 - Recovery of components not covered by R4 or R7 (e.g. scavenging of e-waste or non-functional vehicles);
 - Release, including the venting of compressed or liquefied gases";
 - Refurbishment to prepare waste for reuse;
 - Repair to prepare waste for reuse;
 - Resource recovery from E-waste;
 - Reuse and/or repair and/or the refurbishment of a piece of electrical and electronic appliances;
 - Solidification;
 - Thermo-chemical process not specified elsewhere in Annex IV;
 - Use of organic waste and inorganic metal-containing; and
 - Testing of a new technology to dispose of or recycle a hazardous waste.

D. Annex IX (B1110)

64. There is broad agreement that entry B1110 in Annex IX is to be reviewed to address the terms direct reuse and reuse. The ambiguity concerning the intent of this entry has been identified because B1110 suggests that assemblies destined for direct reuse may be waste while footnote 21 for that entry indicates that materials destined to direct reuse may not be considered wastes in some countries. Moreover, footnote 20 for same entry offers a description of reuse which is not matched by any operations (disposal or recovery operations) listed in Annex IV.

65. The need to have a clear and distinct definition for both reuse and direct reuse was identified as a critical requirement to achieve greater legal clarity. Definitions from the glossary of terms were pointed as a useful reference and are as follows:

Reuse: The using again of a product, object or substance that is not waste for the same purpose for which it was conceived, possibly after repair or refurbishment.

Direct reuse: The using again of a product, object or substance that is not waste for the same purpose for which it was conceived without the necessity of repair or refurbishment.

66. The following views have been submitted by one or several respondents:
- Direct reuse is not a waste treatment. Electric and electronic assemblies that are proven to be functional or require minor repair or refurbishment (i.e. software update) are not waste. However, major reassembly would be considered as waste treatment (disassembly and use of spare parts).
 - The distinction drawn in the footnotes to entry B1110 suggests that direct reuse involves items that are not waste. In the Annex, it is not clear how much repair, refurbishment and upgrading is allowed before the term 'direct reuse' does not apply and hence the items are waste. The e-waste guidelines provide some help but reflecting recent thinking and decisions in the footnotes/B1110 and A1180 entries would be useful.
 - Clarity is needed if direct reuse, in the context of electronic and electrical waste items, can be interpreted to include parts or components that can be reused after disassembly of a larger equipment or only to apply to the entire equipment such that smaller components are considered waste before they can be reused in the manufacture of new parts or equipment.

- National definitions for e-waste vary among Parties and as such they will be a challenging factor in the review of entry B1110.
- Footnote 19 which excludes scrap from electrical power generation should be reviewed because size of the equipment should not be a factor in deciding the exclusion.
- Reference to assemblies containing only metals and alloys should be removed.
- The Spanish translation for this entry should be looked at to avoid confusion and incorrect application of the Convention.

67. As a way forward, it was proposed by some respondents to delete references to reuse and direct reuse including footnote 20 and 21.

Part 4. Conclusions and proposals for a way forward

68. Key conclusions can be drawn from the survey and information submitted by Parties:
- The specific objectives of the review should be guided by a broader objective of improving legal clarity to protect human health and the environment;
 - An expert working group with terms of reference should be established to conduct the review;
 - The Open-Ended Working Group should oversee the activities of the working group;
 - The manner of work should be well structured, consultative, evidenced-based taking into account scientific and technical information, seek information from Parties, and refer to existing documents from the Convention;
 - The work on the review of the Annexes was identified as part of the core mandate of the Convention and its level of priority was identified as high/medium;
 - Allocation of financial resources is key to the success of this work and should be discussed.
69. The Conference of the Parties (COP) at its thirteenth meeting may wish to consider the following:
- Establishing an expert working group guided by the OEWG;
 - Inviting lead countries to the Expert Working Group
 - Inviting nominations to the Expert Working Group;
 - Adopting Terms of Reference for the newly established Expert Working Group;
 - Adopting a work programme for 2017-2019; and
 - Sustaining the work by allocating appropriate financial resources in the work programme and budget.
70. Specific elements of a decision by COP-13 reflecting the abovementioned conclusions and general approach are as follows:

(a) Expert Working Group on the Review of Basel Annexes guided by the OEWG :

Option A: Establish an expert working group with limited participation of Parties with balanced regional representation that is open to observers.

OR

Option B: Establish an expert working group with open-ended participation of Parties that is open observers.

The Expert Working Group will operate under the guidance of the Open-Ended Working Group of the Basel Convention and the authority of the Conference of the Parties to the Basel Convention. The Expert Working Group should be requested to report, through the Secretariat, to the Open-Ended Working Group and the Conference of the Parties.

Invite lead countries for, and nominations to, the Expert Working Group.

(b) Terms of Reference for the Expert Working Group on the Review of the Basel Annexes

1. Mandate:

Review Annexes I, III and IV and related aspects of Annex IX to the Basel Convention.

2. Overarching objectives:

Improve legal clarity of the Basel Convention to protect human health and the environment against the adverse effects of hazardous wastes and other wastes.

Specific objectives:

For Annex IV and the related aspects in Annex IX:

- a) Improve/update the description of disposal operations in Annex IV;
- b) Improve environmental controls by including additional disposal operations that occur in practice or could occur in practice in Annex IV; and
- c) Clarify the descriptions in Annex IV and in Annex IX (B1110) to address conflicts or overlaps.

For Annex I and III:

- a) Improve/update the description of categories of wastes in Annex I and the list of hazardous characteristics in Annex III;
- b) Improve environmental controls by including any additional categories of wastes in Annex I and any additional hazardous characteristics in Annex III that occur in practice; and
- c) Clarify the descriptions in Annexes I and III to address conflicts or overlaps.

3. Membership and participation

Membership of the Expert Working Group is open to:

- a) Nominated Experts from Parties to the Basel Convention; and
- b) Observers.

The Expert Working Group may decide to invite additional experts possessing specialized technical knowledge on an issue to be discussed at a meeting to participate in that meeting, or parts thereof.

4. Co-Chairs

The Expert Working Group shall elect its co-chairs.

5. Working Methods

The Expert Working Group will work by electronic means and conference calls. Face to face meetings will be at the discretion of the co-chairs and be subject to the availability of resources.

(c) Elements for a Work programme for the Expert Working Group on the Review of Basel Annexes

- 1) Establish approaches to undertake the review in a structured and evidence-based manner and determine to scope of studies to be undertaken;
- 2) Review the Annexes in accordance with agreed objectives using as a basis the views and information assembled in document UNEP/CHW.13/INF/10, the studies and other information from the expert group; and
- 3) Prepare a report on possible amendments for each Annex or for groups of Annexes for consideration by OEWG.

Appendix A: Compilation of technical information Annex by Annex

Annex I: Waste streams Y1-Y18 and Waste having as constituents Y19-Y45

Question 32: Are there waste streams missing that need to be included?		
Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Burkina Faso, Canada, Colombia, European Union, Hungary, India, Madagascar, Malaysia, New Zealand, Qatar, Switzerland, Basel Action Network	No <input type="checkbox"/> Russian Federation	Unsure <input type="checkbox"/> Burundi, Chile, China, Egypt, El Salvador, Islamic Republic of Iran, Libya, Mozambique, Peru, South Africa, State of Palestine, Trinidad and Tobago, Venezuela (Bolivarian Republic of)
Question 33: Are there waste streams which should be deleted?		
Yes <input type="checkbox"/>	No <input type="checkbox"/> Azerbaijan, China, India, Madagascar, Malaysia, Qatar, Russian Federation, Switzerland, Venezuela (Bolivarian Republic of), Basel Action Network	Unsure <input type="checkbox"/> Afghanistan, Burkina Faso, Burundi, Canada, Chile, Colombia, Egypt, El Salvador, European Union, Hungary, Islamic Republic of Iran, Libya, Mozambique, New Zealand, Peru, South Africa, State of Palestine, Trinidad and Tobago
Question 34: Should the description of certain waste streams be updated?		
Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Burkina Faso, Burundi, Canada, Colombia, Egypt, El Salvador, Hungary, India, Libya, Madagascar, Malaysia, New Zealand, Qatar, State of Palestine, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of)	No <input type="checkbox"/> Russian Federation	Unsure <input type="checkbox"/> Chile, China, European Union, Islamic Republic of Iran, Mozambique, Peru, South Africa, Basel Action Network
Question 35: Do you see conflicting text?		
Yes <input type="checkbox"/> Burundi, Colombia, New Zealand, Trinidad and Tobago	No <input type="checkbox"/> Afghanistan, Azerbaijan, China, India, Islamic Republic of Iran, Madagascar, Malaysia, Russian Federation, South Africa, Basel Action Network	Unsure <input type="checkbox"/> Burkina Faso, Canada, Chile, Egypt, El Salvador, European Union, Hungary, Libya, Mozambique, Peru, Qatar, State of Palestine, Switzerland, Venezuela (Bolivarian Republic of)
Respondent	Comments*	
Afghanistan	No comments.	
Azerbaijan	Question 32: Aluminum, aluminum compounds. Other comments: Other comments yet.	
Burkina Faso	Question 32: Electrical and electronic assemblies.	

Burundi	<p>Question 32: Possibly if the description is updated.</p> <p>Question 33: The update may suggest the deletion of some waste streams.</p> <p>Question 34: Same comment as for question 32 and 33.</p> <p>Question 35: Conflicting text can start when an object is a "product" for some and a "waste" for others.</p>
Canada	<p>Question 32: Changes could be made to improve the characterization of wastes. For example entry Y29: Mercury; mercury compounds. It would be valuable to consider if additional Y codes are necessary to differentiate between the various types of mercury wastes as presented in the Basel Technical guidelines on the environmentally sound management of wastes consisting of, containing, or contaminated with mercury or mercury compounds and the Minamata Convention.</p> <p>Question 34: Organohalogen compounds can trigger a very broad category of hazardous wastes such as the brominated and fluorinated hazardous wastes. These could be clarified.</p>
Chile	No comments.
China	No comments.
Colombia	<p>Question 32: We suggest including a specific stream for ozone-depleting substances. Some of these substances could be included in Y31 and Y45, but this has been a little difficult and confusing.</p> <p>Question 34-35: Y1: There can be many types of "clinical wastes," and many of them could be included in other Y streams. It would be useful for the Y1 stream to make reference solely to wastes "with a biological/infectious risk."</p>
Egypt	Question 34: Update Y5 and Y17.
El Salvador	<p>Question 32: The number of hazardous constituents is very wide and sometimes a waste can be classified in more than one stream of waste.</p> <p>Question 34: If possible, concentrations or limits of contaminants could be indicated to be considered as hazardous wastes.</p> <p>Question 35: The lists of waste are extremely broad that makes difficult the classification and statistical register of the national generation Of waste without doubling some type of waste within one or more streams of waste.</p>
European Union	<p>Question 32: This question needs further assessment. See also reply to question 11. In this context, we would like to draw attention to the German Basel national report for the year 2009 that referred to the EU Directive on Hazardous Waste (91/689/EEC) which is not in force anymore and that contained the following: "In Germany hazardous wastes are defined in accordance with the EU Directive on Hazardous Waste (91/689/EEC) as amended. Article 1(4) reads: "For the purpose of this Directive "hazardous waste" means waste classified as hazardous waste featuring on the list established ... on the basis of Annexes I and II to this Directive. This waste must have one or more of the properties listed in Annex III. The list shall take into account the origin and composition of the waste and, where necessary, limit values of concentration. ..."</p> <p>It is noted that Annex I.B and Annex II of this EU Directive are different from Annex I and Annex III of the Basel Convention and contain additional wastes as follows: ANNEX I.B - Wastes which contain any of the constituents listed in Annex II and having any of the properties listed in Annex III and consisting of:</p>

	<p>19. Animal or vegetable soaps, fats, waxes 21. Inorganic substances without metals or metal compounds 22. Ashes and/or cinders 23. Soil, sand, clay including dredging spoils 24. Non-cyanidic tempering salts 25. Metallic dust, powder 26. Spent catalyst materials 27. Liquids or sludges containing metals or metal compounds 28. Residue from pollution control operations (e.g. baghouse dusts, etc.) 29. Scrubber sludges 30. Sludges from water purification plants 31. Decarbonization residue 32. Ion-exchange column residue 33. Sewage sludges, untreated or unsuitable for use in agriculture 34. Residue from cleaning of tanks and/or equipment 35. Contaminated equipment 36. Contaminated containers (e.g. packaging, gas cylinders, etc.) 37. Batteries and other electrical cells 38. Vegetable oils 39. Materials resulting from selective waste collections from households 40. Any other wastes</p> <p>Annex II - Wastes having as constituents: C2 Vanadium compounds C4 Cobalt compounds C5 Nickel compounds C10 Silver compounds C15 Barium compounds C12 Tin compounds C19 Inorganic sulphides C22 Lithium, sodium, potassium, calcium, magnesium in uncombined form C28 Peroxides C29 Chlorates C30 Perchlorates C31 Azides”</p> <p>In addition, it seems useful to discuss whether lithium should be addressed in Annex I due to recent problems with certain batteries containing lithium. Question 33-35: More time is needed to assess Annex I.</p>
Hungary	No comments.
India	<p>Question 32: 1) Need for additional Y codes to differentiate between the various types of Mercury wastes as presented in Basel Convention Technical Guidelines on environmentally sound management of wastes consisting of, containing or contaminated with Mercury or Mercury compounds and in the Minamata Convention. 2) Schedule II of Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016 notified by India provide list of waste constituents with concentration limits, which could be referred while reviewing Annex I of Basel Convention.</p> <p>Question 34: The list of waste streams should be updated to describe waste streams as they occur in practice in a manner which enables them to be identified easily.</p>
Islamic Republic of Iran	No comments.

Libya	No comments.
Madagascar	<p>Question 32: Wastes and compounds of silicon "Si" (chemical constituent of glass, glass pane)</p> <p>Question 34: Add to Y16: from production, use of plastic products, pneumatic wastes, debris wastes from aircraft, Ship/Wreck Waste (Hong Kong Convention) and waste of ammunitions.</p> <p>Question 35: There are gaps or deficiencies in the flow of waste generated by the development of industrial technologies and business globalization.</p> <p>Other comments: Revise or add lists of waste streams in the context of the dynamic and evolving global environment (Minamata Convention, Hong Kong) to achieve the objective of sustainable development.</p>
Malaysia	No comments.
Mozambique	<p>Question 32: I'm not sure, but I think there is some difficult for proponents to integrate their waste in this Y code list (Block 14 of the transboundary movement form), for that I suggest to become clearer.</p> <p>Question 33: As I said above we have to be clearer/more detailed this Y code list.</p> <p>Question 34: I think we can, because bearing in mind the results of the two proposed studies and the needs of the clarification of Y code list we will update.</p> <p>Question 35: Not yet.</p>
New Zealand	<p>Question 32: The following waste streams are missing: Spent catalyst, e-waste, other waste consumer items, oxidizing waste, brominated flame retardants.</p> <p>Question 34: There would be benefit in updating Y18.</p> <p>Question 35: Y12 and Y13 can be used for the same waste, for example, paint. Currently e-waste is only captured through use of multiple codes from Y19 to Y45.</p>
Norway	No comments.
Peru	<p>Question 32: It is possible that new waste streams are being generated since the entry into force of the Convention (for example, waste from nanomaterials that could constitute hazardous waste). A review to evaluate how best the Convention can address those streams is warranted.</p> <p>Other comments: We see the need for a more in-depth analysis and therefore suggest accessing preliminary studies to support amendment or non-amendment of this Annex.</p>
Qatar	No comments.
Russian Federation	No comments.
South Africa	No comments.
State of Palestine	No comments.
Switzerland	<p>Question 32: E.g. "Other organic constituents" and "other inorganic constituents" for substances that are not listed in annex I but may be exhibit Annex III characteristics.</p> <p>Question 33: No but clarifications are needed.</p> <p>Question 35: This will depend on the progressing of the work.</p>

Trinidad and Tobago	<p>Question 34: All should be reviewed. One example is Y18 (residues arising from industrial waste disposal operations). Industrial waste should be defined. Specifically, waste streams associated with e-Waste, and waste pneumatic tyres need to be added. Household waste also has a myriad of hazardous waste streams which should also be incorporated.</p> <p>Question 35: Y1 (clinical wastes from medical care in hospitals, medical centres and clinics) and Y3 (waste pharmaceuticals, drugs and medicines). Y3 is interpreted as a component of Y1. Y6 (wastes from the production, formulation and use of organic solvents) and Y10 (wastes substances and articles containing PCBs, PCTs and PBBs). Y10 is a component of Y6.</p>
Venezuela (Bolivarian Republic of)	<p>No comments.</p>
Basel Action Network	<p>Question 32: We need to consider biohazards, nano materials, some rare earth metals, we need to include POPs, ozone depleting substances, all endocrine disruptors, powdered toners, and fibers and dusts which are capable of causing lung damage when inhaled (e.g. silicosis). We need to include here, wastes arising from the production and use of electronics as most of this sectorial waste is hazardous. Tin and tin compounds needs to be added. Silver and silver compounds is needed here. Copper and Zinc should include elemental form. Nickel and nickel compounds also.</p>

* Comments provided in Arabic, Chinese, Russian, Spanish and French have been translated by Canada.
For the full original submissions please refer to Basel website at:
<http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>

**Annex III: Hazardous characteristics
H1, H3, H4.1, H4.2, H4.3, H5.1, H5.2, H6.1, H6.2, H8, H10, H11, H12, H13**

Question 36: Are there characteristics missing that need to be included?		
Yes <input type="checkbox"/> European Union, Hungary, India, Madagascar, New Zealand, Peru, Switzerland, Basel Action Network	No <input type="checkbox"/> Afghanistan, Azerbaijan, Russian Federation	Unsure <input type="checkbox"/> Burkina Faso, Burundi, Canada, Chile, China, Colombia, Egypt, El Salvador, Islamic Republic of Iran, Libya, Mozambique, Qatar, South Africa, State of Palestine, Trinidad and Tobago, Venezuela (Bolivarian Republic of)
Question 37: Should the description of certain hazardous characteristics be updated to be in line with the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS)?		
Yes <input type="checkbox"/> Azerbaijan, Chile, Colombia, Egypt, European Union, Hungary, India, Libya, Madagascar, Malaysia, Mozambique, New Zealand, Peru, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of)	No <input type="checkbox"/> Russian Federation	Unsure <input type="checkbox"/> Afghanistan, Burkina Faso, Burundi, Canada, China, El Salvador, Islamic Republic of Iran, Qatar, Basel Action Network
Question 38: Do you see conflicting text?		
Yes <input type="checkbox"/> Burundi, Colombia, Trinidad and Tobago	No <input type="checkbox"/> Afghanistan, Azerbaijan, China, India, Islamic Republic of Iran, Madagascar, Malaysia, New Zealand, Qatar, Russian Federation, South Africa, Basel Action Network	Unsure <input type="checkbox"/> Burkina Faso, Canada, Chile, Egypt, El Salvador, Hungary, Libya, Mozambique, Peru, State of Palestine, Switzerland, Venezuela (Bolivarian Republic of)
Respondent	Comments*	
Afghanistan	No comments.	
Azerbaijan	No comments.	
Burkina Faso	No comments.	
Burundi	Question 36: It needs to be studied. Question 37: Hazardousness is not define the same for all of us. Question 38: Because norms and standards can be different for some Parties.	
Canada	No comments.	
Chile	No comments.	
China	No comments.	
Colombia	Question 38: For example, the text of the definition of characteristics H13 is unclear. For example, one wouldn't know if Ozone-Depleting Substances	

	would enter through this characteristic or not. Other comments: We would recommend reviewing the wording of characteristics H12 and H13.
Egypt	No comments.
El Salvador	Question 36: The hazard characteristics set out in the Convention are sufficient to cover Transport, treatment and disposal of hazardous wastes. Question 37: If there is a feature that is not incorporated, it may be appropriate to incorporate it or update the description if it brings greater Technical and legal clarity.
European Union	Questions 36: See Annex III of the EU Waste Framework Directive which contains a list of properties of waste which render it hazardous, through which this Annex has been adapted to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) ⁴ . Question 37: See reply to question 36. Other comments: In the box above question 36, H6.1, H6.2, H8, H10, H11, H12, H13 should also be listed.
Hungary	No comments.
India	Question 36: It should be clarified with justification as to why the following hazardous characteristics have not been included in the review or should include the following hazardous characteristics: H 6.1 - poisons (acute) H 6.2 - infectious substances H 8 - corrosives H 10 - liberation of toxic substances in contact with air or water H 11 - toxic (delayed or chronic) H 12 - eco-toxic H 13 – capable
Islamic Republic of Iran	No comments.
Libya	No comments.
Madagascar	Question 36: Specify well or add Matter / substances / substances "GENOTOXIC". Question 37: For "GENOTOXIC" products. Question 38: But we should add the genotoxicity of products/substances, because some substances are chemically genotoxic/object intentionally genetically modified (GMO by their use or release in the environment because of their biological properties clastogen. Other comments: It is important to add to Annex III because the global environment context of the third millennium is highly evolved and we have great and enormous tasks in the face of the combined implementation of international treaties and conventions. By the United Nations, among others: -The fight against pollution by the Hg that will have to be resolved in time,

⁴ Please see further <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R1357>

	<p>-The fight against GMOs.</p> <p>-The fight against pollution by ecotoxic chemicals (Hg, Cd, Pb),</p> <p>-The fight against the harmful effects by toxic waste which contain very ecotoxic, genotoxic products or chemical substances (clastogens).</p> <p>Personally, being a member of the expert working group, I wish that Canada will be the President and Leader of the working group of the amendment to the schedule.</p>
Malaysia	No comments.
Mozambique	<p>Question 36: I think the two studies proposed in question nº 10 will guide us.</p> <p>Question 37: We need to update or clearer some descriptions.</p> <p>Question 38: May we check H4.2, H5.1.</p>
New Zealand	<p>Question 36: It would be helpful to align with the GHS.</p> <p>Question 37: Descriptions should be updated, however, it should retain descriptions not covered by the GHS, for example H10 and H13.</p>
Norway	No comments.
Peru	<p>Question 36: We suggest considering inclusion of the following hazardous characteristics: insensitive explosives; inflammable gases; organic peroxides; acute toxicity; metal corrosives; skin corrosion; respiratory or skin sensitivity; germ cell mutagenicity; toxicity for reproduction; dangers for the ozone layer; substances or waste that experience self-heating; substances or waste that spontaneously react (self-reactants); substances or waste that emit flammable gases when in contact with water; combustible substances or waste; toxic substances (with single exposure); and toxic substances (repeated exposures).</p>
Qatar	No comments.
Russian Federation	No comments.
South Africa	No comments.
State of Palestine	No comments.
Switzerland	<p>Question 36: E.g. Flammable gases, irritant, sensitising, release of toxic gases in contact with acids.</p> <p>Question 37: The description should be harmonised wherever possible and meaningful.</p> <p>Question 38: This will be dependent on the progressing work.</p>
Trinidad and Tobago	<p>Question 37: The UN GHS and UN Recommendation on the Transportation of Dangerous Goods (UN TDG) were both updated since the current version of the Basel Convention was published. The classification and coding stated in the Convention should be similar to the UN GHS and UN TDG as these codes are referenced in most jurisdictions. This alignment will also facilitate the transboundary movement of certain categories of material which are destined for a resource recovery plant or to be used to manufacture new materials.</p> <p>Question 38: H6.1 (Poisonous Acute) and H11 (Toxic) are both used to characterize substances which can lead to death. The definitions in the</p>

	Convention need to be clearer.
Venezuela (Bolivarian Republic of)	No comments.
Basel Action Network	Question 36: Ozone Depleting Substances, Endocrine Disruptors, Teratogens, Bioaccumulating substances in humans (e.g. lipophilic compounds), lung irritators or cytotoxicity (eg. coming from nanoparticles or dusts).

* Comments provided in Arabic, Chinese, Russian, Spanish, and French have been translated by Canada. For original submissions please refer to Basel website at:
<http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>

Annex IV: Disposal operations

Question 11: Do you think Annex IV should be reviewed to:

11a. Update the list of operations listed in Annex IV.A?

Yes

Afghanistan, Azerbaijan,
Burkina Faso, Burundi, Canada,
Chile, Colombia, Egypt, El
Salvador, European Union,
Hungary, India, Libya,
Madagascar, Malaysia,
Mozambique, New Zealand,
Peru, Qatar, Russian
Federation,
South Africa, State of Palestine,
Switzerland, Trinidad and
Tobago, Venezuela (Bolivarian
Republic of), Basel Action
Network

No

China

Unsure

Islamic Republic of Iran

11b. Update the list of operations listed in Annex IV.B, for instance by including some recovery operations as they occur in practice?

Yes

Afghanistan, Azerbaijan,
Burkina Faso, Burundi, Canada,
Chile, Colombia, Egypt, El
Salvador, European Union,
Hungary, India, Libya,
Madagascar, Malaysia,
Mozambique, New Zealand,
Peru, Russian Federation, South
Africa, State of Palestine,
Switzerland, Trinidad and
Tobago, Venezuela (Bolivarian
Republic of), Basel Action
Network

No

Unsure

China, Islamic Republic of Iran, Qatar

11c. Review the description of the disposal operations?

Yes

Afghanistan, Azerbaijan,
Burkina Faso, Burundi, Canada,
Chile, Colombia, Egypt, El
Salvador, European Union,
Hungary, India, Libya,
Madagascar, Malaysia,
Mozambique, New Zealand,
Peru, Russian Federation, South
Africa, State of Palestine,
Switzerland, Trinidad and
Tobago, Venezuela (Bolivarian
Republic of), Basel Action
Network

No

China

Unsure

Islamic Republic of Iran, Qatar

Question 12: Do you think a clearer distinction between Annex IV.A and B operations is needed?

Yes <input type="checkbox"/> Azerbaijan, Burkina Faso, Colombia, Egypt, El Salvador, European Union, India, Islamic Republic of Iran, Libya, Madagascar, Russian Federation, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of)	No <input type="checkbox"/> Chile, China, Malaysia, Qatar, Basel Action Network	Unsure <input type="checkbox"/> Afghanistan, Burundi, Canada, Hungary, Mozambique, New Zealand, Peru
---	---	--

1. Annex IV caption text

A. Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternative uses	B. Operations which may lead to resource recovery, recycling, reclamation, direct re-use or alternative uses
---	---

Question 13: Should the caption text be simplified and changed to "final disposal operations"?	Question 15: Should the caption text be simplified and changed to "recovery operations"?
---	---

Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Chile, European Union, Hungary, India, Libya, Madagascar, Malaysia, Mozambique, New Zealand, Peru, Qatar, South Africa, Switzerland, Venezuela (Bolivarian Republic of), Basel Action Network	No <input type="checkbox"/> China, Egypt, El Salvador, Russian Federation, State of Palestine, Trinidad and Tobago	Unsure <input type="checkbox"/> Burkina Faso, Burundi, Canada, Colombia, Islamic Republic of Iran	Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Chile, European Union, Hungary, India, Libya, Madagascar, Malaysia, Mozambique, New Zealand, Qatar, South Africa, Switzerland, Venezuela (Bolivarian Republic of), Basel Action Network	No <input type="checkbox"/> Burkina Faso, China, Egypt, El Salvador, Russian Federation, State of Palestine	Unsure <input type="checkbox"/> Burundi, Canada, Colombia, Islamic Republic of Iran, Peru, Trinidad and Tobago
---	--	---	---	---	--

Question 14: Should the caption text be reviewed in relation to the term "direct re-use"?	Question 16: Should the caption text be reviewed in relation to the term "direct re-use"?
--	--

Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Canada, Chile, Colombia, Egypt, El Salvador, Hungary, India, Libya, Malaysia, Peru, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	No <input type="checkbox"/> China, European Union, Madagascar, Mozambique, Qatar, Russian Federation, Venezuela (Bolivarian Republic of)	Unsure <input type="checkbox"/> Burkina Faso, Burundi, Islamic Republic of Iran, New Zealand, South Africa	Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Canada, Chile, Colombia, Egypt, El Salvador, Hungary, India, Libya, Madagascar, Malaysia, Qatar, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	No <input type="checkbox"/> China, European Union, Mozambique, Russian Federation, Venezuela (Bolivarian Republic of)	Unsure <input type="checkbox"/> Burkina Faso, Burundi, Islamic Republic of Iran, New Zealand, Peru
--	--	--	---	---	--

2.			Introductory text		
3. Section A encompasses all such disposal operations which occur in practice.			5. Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A		
4.					
Question 17: Should there be changes to the introductory text?			Question 18: Should there be changes to the introductory text?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Azerbaijan, Burkina Faso, Burundi, Chile, Egypt, European Union, Madagascar, Malaysia, New Zealand, Peru, Qatar, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	China, India, Russian Federation, South Africa, Venezuela (Bolivarian Republic of)	Afghanistan, Canada, Colombia, El Salvador, Hungary, Islamic Republic of Iran, Libya, Mozambique	Azerbaijan, Burundi, Chile, Egypt, El Salvador, European Union, Madagascar, Malaysia, New Zealand, Peru, Qatar, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	China, India, Russian Federation, Venezuela (Bolivarian Republic of)	Afghanistan, Burkina Faso, Canada, Colombia, Hungary, Islamic Republic of Iran, Libya, Mozambique
Operations					
D1 to D15			R1 to R13		
Question 19: Are there operations missing which need to be included?			Question 24: Are there operations missing which need to be included?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Azerbaijan, Burundi, Canada, Colombia, Egypt, European Union, Hungary, India, Islamic Republic of Iran, Madagascar, New Zealand, Switzerland, Trinidad and Tobago	Afghanistan , Malaysia, Russian Federation	Burkina Faso, China, El Salvador, Libya, Mozambique , Peru, Qatar, South Africa, State of Palestine, Venezuela (Bolivarian Republic of), Basel Action Network	Azerbaijan, Burundi, Canada, European Union, Hungary, India, Madagascar, Malaysia, New Zealand, Russian Federation, Switzerland, Trinidad and Tobago, Basel Action Network	Afghanistan, China	Burkina Faso, Colombia, Egypt, El Salvador, Islamic Republic of Iran, Libya, Mozambique, Peru, Qatar, South Africa, State of Palestine, Venezuela (Bolivarian Republic of)
Question 20: Are there operations which should be deleted?			Question 25: Are there operations which should be deleted?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Azerbaijan, Burundi, Colombia, Madagascar, Peru, Switzerland, Trinidad and	China, Hungary, India, Islamic Republic of Iran,	Afghanistan, Burkina Faso, Canada, Egypt, El Salvador, European	Madagascar, Peru, Switzerland	Azerbaijan, Burkina Faso, China, Hungary, India, Islamic Republic of	Afghanistan, Canada, Colombia, Egypt, El Salvador, European Union, Libya,

Tobago	Malaysia, Qatar, Russian Federation, South Africa, Basel Action Network	Union, Libya, Mozambique, New Zealand, State of Palestine, Venezuela (Bolivarian Republic of)	Iran, Malaysia, Qatar, Russian Federation, South Africa, Basel Action Network	Mozambique, New Zealand, State of Palestine, Trinidad and Tobago, Venezuela (Bolivarian Republic of)	
Question 21: Should the description of certain disposal operations be updated?			Question 26: Should the description of certain disposal operations be updated?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Afghanistan, Azerbaijan, Burkina Faso, Burundi, Canada, Colombia, Egypt, European Union, Hungary, India, Libya, Malaysia, Mozambique, New Zealand, Peru, Qatar, South Africa, State of Palestine, Switzerland, Trinidad and Tobago	China, Islamic Republic of Iran, Russian Federation	El Salvador, Madagascar, Venezuela (Bolivarian Republic of), Basel Action Network	Afghanistan, Azerbaijan, Canada, Colombia, Egypt, European Union, Hungary, India, Libya, Madagascar, Mozambique, Qatar, South Africa, Switzerland, Trinidad and Tobago	China, Islamic Republic of Iran, Russian Federation	Burkina Faso, El Salvador, Malaysia, New Zealand, Peru, State of Palestine, Venezuela (Bolivarian Republic of), Basel Action Network
Question 22: Do you see conflicting text?			Question 27: Should the description of operation R9 be reviewed in relation to the term "reuses"?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Burundi, Canada, Colombia, Egypt, El Salvador, European Union, India, Madagascar, Malaysia, New Zealand, Switzerland, Trinidad and Tobago	Afghanistan, Azerbaijan, Burkina Faso, China, Islamic Republic of Iran, Libya, Mozambique, Peru, Qatar, Russian Federation, South Africa, Basel Action Network	Hungary, Islamic Republic of Iran, Libya, Mozambique, Peru, Qatar, Venezuela (Bolivarian Republic of)	Burundi, Canada, Colombia, Egypt, European Union, Hungary, India, Libya, Madagascar, Malaysia, Peru, Qatar, State of Palestine, Switzerland, Trinidad and Tobago	Afghanistan, Azerbaijan, Russian Federation, Basel Action Network	Burkina Faso, China, El Salvador, Islamic Republic of Iran, Mozambique, New Zealand, South Africa, Venezuela (Bolivarian Republic of)
Question 23: Are there terms that would benefit from a definition?			Question 28: Do you see conflicting text?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
Afghanistan, Burundi, El Salvador, Hungary, Madagascar, New	Azerbaijan, China, India, Mozambique, Russian	Burkina Faso, Canada, Colombia, Egypt, Islamic Republic of	Canada, Colombia, European Union, India, Switzerland,	Azerbaijan, China, Madagascar, Malaysia, Qatar,	Afghanistan, Burkina Faso, Egypt, El Salvador, Hungary, Islamic

Zealand, State of Palestine, Switzerland, Trinidad and Tobago	Federation, South Africa, Basel Action Network	Iran, Libya, Malaysia, Peru, Qatar, Venezuela (Bolivarian Republic of)	Trinidad and Tobago	Russian Federation, South Africa, Basel Action Network	Republic of Iran, Libya, Mozambique, New Zealand, Peru, State of Palestine, Venezuela (Bolivarian Republic of)
--	--	---	------------------------	--	--

Question 29: Are there terms that would benefit from a definition?

	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Afghanistan, Burkina Faso, Colombia, Egypt, European Union, Hungary, India, Madagascar, Malaysia, Mozambique, New Zealand, Peru, Qatar, Russian Federation, State of Palestine, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of)	Azerbaijan, China, South Africa, Basel Action Network	Canada, El Salvador, Islamic Republic of Iran, Libya

Respondent	Comments*
------------	-----------

Afghanistan	No comments.
Azerbaijan	Question 20: Merge disposal operation D4 and D6 in one disposal operation.
Burkina Faso	Question 11: Definitions of operations D1 and D5. Question 12: Make the distinction between operation D1 and D5. Question 29: Recycling, reclamation, regeneration, recovery, reuse.
Burundi	Question 11: Some Parties recognize disposal operations not listed in Annex IV or defined differently from those in Annex IV. Question 17-18: In case new operations would be added. Question 19 and 24: The update of these operations can integrate new ones. Question 20 and 25: Yes if we find that some operations may be merged or replaced. Question 21 and 26: Yes following this review. Question 22 and 27: Yes as some description are incomplete. Question 23 and 28-29: Yes as in practice, the national legal framework of some Parties recognizes certain points of differentiation with the points of the Convention.

<p>Canada</p>	<p>Question 11: We consider that Annex IV should be reviewed according to the objectives for the review of the Annexes. We consider that all three objectives identified above in paragraph six are relevant.</p> <p>Question 12: Most likely a clearer distinction between Annex IV.A and B operations will be needed. Discussions taking place post-COP-13 will help inform our view in this regard.</p> <p>Question 14: A reference to direct re-use in the caption text does not seem relevant as the nature of the operations of Annex IV.A do not lead to a direct reuse of a waste.</p> <p>Question 16: Based on the definition of direct reuse from the glossary of term, a reference to direct re-use does not seem relevant. A reference to reuse could be made.</p> <p>Question 19: Two additional disposal operations are subject to Canada's domestic legislation: 1) D16: waste used in the testing of new technology, and 2) D15: "release, including the venting of compressed or liquefied gases".</p> <p>Question 24: We found an operation missing which we have codified in our domestic legislation as: R15: waste used in the testing of new technology.</p>
<p>Chile</p>	<p>Question 12: The clearer distinction might be considered in the caption text.</p> <p>Question 15: The definitions of final disposal and recovery, as prepared by the SIWG on legal clarity, should have been approved by COP.</p> <p>Question 16: The best caption is 'final disposal'. If not, anyway 'direct-re-use' should be reviewed.</p> <p>Question 18: The definitions of glossary should be used.</p> <p>Question 20: Apparently there are disposal operations that are not permitted anymore.</p> <p>Other comments: Possibly the review should consider a new start: Define basic final disposal operations (on land, on water (if applicable), thermal treatment, physical treatment, biological treatment), and then detailed operation for each of them. And the possibility or obligation to identify these more detailed operations. In the case of recovery: basic operations are recovery of products (re-use), material (recycling) or energy. And then more detailed information, e.g. recycling of metals, energy recovery of oils, and so on.</p>
<p>China</p>	<p>Question 11: There are still some recovery tasks performed in actual practice that must be evaluated and discussed on their own in light of specific conditions.</p> <p>Question 12: The distinction between A and B is clear as they stand.</p> <p>Question 13 and 15: "Disposal" is a key element in the definition of "waste matter" and implicates considerable content and many aspects in the Convention and related documents. Best not to change it.</p> <p>Question 14-16: The concept of solid waste includes the concepts of space and time. Direct reuse of solid waste (solid scrapped material) may be viewed as a process which, by nature, brings about a shift in status of this material where it becomes a useful product at a different time and space. For example, in developed countries, computers, at a given point in time, change from being useful products to being solid waste. In developing countries, on the other hand, these scrapped computers, at some point in time, may turn into useful products by way of direct reuse. Direct reuse of solid scrapped material must satisfy a number of conditions, and in the countries which produce this material (exporting countries), there is no way to ensure that the conditions of the country where it will be used (the importing country) will be respected. For this reason, it is still scrap material at the time of exportation and not useful products and still needs to be treated as scrap material. Whether or not a solid waste item</p>

	<p>can be directly reused as a useful product is the decision of the importing country and not that of the exporting country. If a scrapped item is treated as a serviceable used product in the producing country (the exporting country), there is the possibility of a large amount of scrapped items not satisfying the conditions or standards of the country using it (the importing country) being imported through transboundary movement of waste matter under the name of "used products." In short, we feel that direct reuse is one possible means of handling solid waste matter, but the exporting country must treat this type of material as solid waste material. Whether or not it can be directly reused as used products would be determined by the conditions and standards established in each importing country.</p>
<p>Colombia</p>	<p>Question 11: In this review, the term "update the list" should cover the inclusion of new operations that are not included, and the deletion of some operations that do not fall under the concept of 'Environmentally Sound Management" (e.g., D7, release into seas, oceans or lakes) or where the appropriateness of being included is unclear (e.g., D14 or D15, R13).</p> <p>Question 13: Because not always in all operations that are in the Annex IV.A (Code D) could it be said that there is a "final disposal of waste." For example, the ...</p> <p>Question 14: The entire title should be reviewed, but the important thing would be to define what is understood by "resource recover," "recycling," "reclamation" and "direct reuse" ...</p> <p>Question 15: The important thing would be to define what is understood by "resource recovery," "recycling," "reclamation" and "direct reuse," since these terms are not...</p> <p>Question 16: The important thing would be to define what is understood by "resource recovery," "recycling," "reclamation" and "direct reuse," since these terms are not...</p> <p>Question 17-18: If the title of the annex is sufficiently clear, there would be no need to place an introductory text.</p> <p>Question 19: thermal treatment with combustion (e.g., incineration, pyrolysis, etc.) Thermal treatment without combustion (e.g., Autoclave)</p> <p>Question 20: The appropriateness of deleting operations D6 and D7, as well as D14 and D15 should be reviewed.</p> <p>Questions 21: The description between D1 and D5 should be clarified in order to know what the difference is, or they should be unified into a single operation. In addition to that D4, D6 and D7.</p> <p>Question 22: Yes, between D1 and D5. Furthermore, the terms in which operations D4, D6, D7 and D11 are described are not sufficiently...</p> <p>Question 26: Preferably R1 and R7. Although it would be useful if all of them were reviewed.</p> <p>Question 28: It is unclear whether R1 includes the co-processing of waste in cement kilns or in other blast furnaces.</p> <p>Question 29: The important thing would be to define what is understood by "resource recover," "recycling," "reclamation" and "direct reuse," since there terms are not...</p>
<p>Egypt</p>	<p>Question 11: Yes, the operations must be reviewed to include other operations such as solidification which is used with wastes such as mercury because it is not present in the Annex. Also a review of the description of some wastes is required and to explain the difference between landfilling in D1 and D5. It is important to take into consideration explaining whether operations D or R lead to the waste</p>

	<p>being hazardous or not because the current text does not help the countries to consider whether the waste that is subject to these operations is hazardous or not. For example, 3140 “the waste of air tires, excluding the ones that are destined to operations in Annex IV.A. ” which means that Annex IV.A is applied on hazardous waste and this contradicts with the definition appearing in Annex IV.B which includes operations concerning materials defined in <i>NAKANO</i> because it is hazardous material, and if it was not subject to these operations it would have been destined to operations mentioned in Annex A (this means that the waste subject to Annex A is not hazardous and this contradicts what was defined for the waste material 3140.</p> <p>Question 12: Yes, explain in a way that is easy to differentiate between hazardous and non-hazardous waste to avoid any confusion or differences at the national level in distinguishing between hazardous and non-hazardous waste based on the operations applied to the waste.</p> <p>Question 13: It can be left as is and add “final disposal operation” between brackets.</p> <p>Question 14: Explain what is direct reuse.</p> <p>Question 15: It can be left as is and add the words “recovery operations.”</p> <p>Question 16: Explain what is direct reuse.</p> <p>Question 17: Put the text in a clearer way to match the definition text in Annex B i.e. to clarify whether the waste relevant to this Annex is hazardous or not.</p> <p>Question 18: The text as it stands now gives the understanding that the waste in it is hazardous and if it is not subject to it, then it would be subject to Annex A (i.e. not hazardous) so, is it possible to use a description that is appropriate with the description in Annex A to make it easy for the Parties to distinguish between hazardous wastes and other wastes based on the operations implemented?</p> <p>Question 19: Yes. Solidification.</p> <p>Question 21: What is the difference between D1 and D5? Incineration on the ground (D10), does it mean Open Dumping?</p> <p>Question 22: Yes, the description in Annex A, the description in Annex B and what is mentioned in Annex IX B 3140 wastes of air tires, excluding the ones destined to operations in Annex 4A.</p> <p>Question 26: It is preferable to add examples of the wastes that are considered with every operation, for example, R10, R12 and so on. You can redefine R1 to clarify the operation of Co-Processing of Hazardous waste.</p> <p>Question 27: Please explain in a clearer way.</p> <p>Question 29: Solvent reclamation.</p>
<p>El Salvador</p>	<p>Question 11: To establish with greater clarity the type of operation and conditions under which they should be realized or allowed.</p> <p>Question 12: To establish in more detail the operations of recovery, recycling or exploitation.</p> <p>Question 13: The definitive disposal should correspond to final disposition, since nothing is "eliminated" is only transformed. It is part of The conceptualization that should be reviewed in the terminology of the Convention.</p> <p>Question 14: The definition of "direct reuse" for waste is unclear, especially as this practice could lead to risks Environmental or health impacts of improper waste management.</p> <p>Question 15: Not all operations indicated correspond to "recovery" of materials.</p> <p>Question 16: The definition of "direct reuse" for waste is unclear, especially as this practice could lead to risks Environmental or health impacts of improper waste management.</p> <p>Question 17: I do not know if "all" operations are included.</p>

	<p>Question 18: If possible establish limits or concentrations that make a waste hazardous. The way to establish the dangerousness or not Dangerousness is subjective and States Parties may reach different classification conditions for the same waste.</p> <p>Question 19-20 and 24-25: It is not known that "all" operations are available and that they are environmentally sound to prevent risks to health and the environment.</p> <p>Question 22: The definition of "elimination".</p>
<p>European Union</p>	<p>Question 11: It is important to note that the term "disposal" is linked to the definition of waste ("Wastes" are substances or objects which are disposed of ...). Therefore, Annex IV should cover environmentally sound, controlled or legal as well environmentally unsound, uncontrolled or illegal disposal operations (the latter would not be used in notification and movement documents or be referred to in the waste hierarchy; they are however e.g. relevant in the context of the illegal traffic; for example, for us D11 Incineration at sea falls under this category as it is prohibited by EU legislation and international conventions). Annex IV should also cover disposal operations that occur in practice and, in the light of the previous sentence, may be also disposal operations that could occur in practice.</p> <p>The draft glossary of terms (see doc. UNEP/CHW/OEWG.10/INF/10) should be taken into account in the review of Annex IV to the Basel Convention as a source of inspiration as it contains useful definitions and explanatory notes. Our legislation addresses some of these issues. The EU Waste Framework Directive contains lists of recovery and disposal operations in its Annexes I and II, respectively that could also be taken into account in a review. Furthermore, the question arises whether it is possible, like in the EU Waste Framework Directive, to make the lists in sections A and B non-exhaustive lists (see under Other comments below question 2 above).</p> <p>Question 12: The two sections of the Annex do not allow for a clear distinction between Annex IVA operations and Annex IVB operations either in terms of their general nature, or in individual cases, for example D10 „incineration on land“ and R1 „use as a fuel“. As the key distinction between Annex IVA and IVB operations, the term "recovery" could be defined as follows:</p> <p>"Any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy". It could also be explained that recovery operations make use of resources as they will obtain some useful benefit from the waste, either by bringing it back into productive use or recovering energy from it (see Glossary of terms, explanatory note (e) under "Recovery").</p> <p>The term final disposal could be defined as follows:</p> <p>"Any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy".</p> <p>See also the reply to question 17.</p> <p>Question 13: This would be simpler. A clear title like this would make it easier to understand what the Annex should contain. See also the reply to question 17.</p> <p>Question 14: This is not necessary if the caption is simplified as shown in question 13. According to the Glossary of terms, operations in Annex IVA cannot lead to direct re-use so the text as it is misleading.</p> <p>Question 15: This would be simpler. A clear title like this would make it easier to understand what the Annex should contain. See also the reply to question 17.</p> <p>Question 16: This is not necessary if the caption is simplified as shown in</p>

question 15. In line with the Glossary of terms, referring to operations that lead to direct re-use is confusing as direct re-use only occurs where no such operations are necessary.

Question 17: As a consequence of keeping the captions short as outlined in questions 13 and 15 above, the introductory text should be expanded as it can help explain the nature of the operations it contains in general terms. We think it would be useful to further look into the option of defining certain terms that are used in Annex IV (as already indicated in document UNEP/CHW.12/INF/52), either in a new part before section A or in both sections A and B. This should be limited to terms that are not already defined in the Convention text. It is noted that the Convention's definition of "disposal" covers "any operation specified in Annex IV to this Convention". See also reply to question 12.

Question 18: It would be helpful to explain the nature of these operations. Recovery operations make use of resources as they will obtain some useful benefit from the waste, either by bringing it back into productive use or recovering energy from it (see Glossary of terms, explanatory note (e) under "Recovery"). See reply to question 17.

Question 19: The answer depends on how specific the descriptions of final disposal operations should be, also in the light developments since the Convention was adopted. See also reply to question 11. Our legislation (Annex I of the EU Waste Framework Directive) for example includes further details in footnotes, e.g. for D13 to further specify preliminary operations and for D11 to explain this operation is prohibited under national law. The Annex is intended to list disposal operations as they occur in practice or could occur in practice. Within the EU, some of the issues we have experienced with the list are addressed in Annex I to the Waste Framework Directive. Competent authorities have also considered what type operations should fit within these headings e.g. see https://www.epa.ie/pubs/forms/wreport/nwr/Explanation_of_Recovery_and_Disposal_Codes_FMcC.pdf

Question 20: This issue needs further assessment. For example, it may be discussed whether it is necessary to keep operation D14 (Repackaging) as a separate operation, also in the light of the fact that there is no R operation for repackaging.

Question 21: The descriptions could be improved to better explain operations as they occur in practice. This would improve clarity and facilitate implementation. See replies to questions 19 and 22.

Question 22: It is not always clear how the different operations listed relate to each other. There is a potential overlap for example between D1 "deposit into or onto land" and D5 "specially engineered landfill". The approach in relation to this could be that D1 is used in situations such as the illegal deposit of hazardous waste onto land and D5 is used for built (engineered) sites like landfills for the final disposal of hazardous and other wastes.

Question 23: See reply to questions 12 and 17.

Question 24: The answer depends on how specific the descriptions of recovery operations should be, also in the light developments since the Convention was adopted. See also reply to question 11. In this context, the Glossary of terms seems relevant. Taking into account this glossary, it seems useful to distinguish recycling from other recovery operations like energy recovery. In addition, as no suitable operation is listed in Annex IVB that describes refurbishment and repair that can both be applied to waste, an operation could be added to cover repair and refurbishment to prepare waste for reuse. We believe such operations occur in practice. Our legislation (Annex II of the EU Waste Framework Directive) for example includes further details in footnotes, e.g. for R12 to further specify

	<p>preliminary operations. Finally, a further example of an operation that is not included is backfilling. Backfilling means a recovery operation where suitable waste is used for reclamation purposes in excavated areas or for engineering purposes in landscaping and where the waste is a substitute for non-waste materials. Backfilling does not have a clear assignment to the R codes. The Annex is intended to list disposal operations as they occur in practice or could occur in practice. Within the EU, some of the issues we have experienced with the list are addressed in Annex II to the Waste Framework Directive. Competent authorities have also considered what type operations should fit within these headings e.g. see https://www.epa.ie/pubs/forms/wreport/nwr/Explanation_of_Recovery_and_Disposal_Codes_FMcC.pdf</p> <p>Question 25: For example, operation R 11 (Uses of residual materials obtained from any of the operations numbered R1-R10) may be redundant as the ordinary use of a material may not be seen as recovery operation.</p> <p>Question 26: See reply to question 24.</p> <p>Question 27: The term “reuse” in R9 conflicts with the understanding of “reuse” in the Glossary of terms. According to the definition in the Glossary of terms, reuse refers to using again the product, object or substance for the same purpose for which it was conceived. If a product, object or substance is able to be used in this way, then it is no longer waste so should not be referred to as an R operation.</p> <p>Question 28: There is a potential overlap for example between R9 “... other reuses of previously used oil” and R1 “use as a fuel”. See also reply to question 24 and 27.</p> <p>Question 29: See reply to questions 12 and 17.</p>
Hungary	No comments.
India	<p>Question 11: 1) Existing list is not comprehensive. 2) List is not clear as there exist overlaps, for e.g. between D 1 “deposit into or onto land” and D5 “specially engineered landfill”.</p> <p>Question 12: The Basel Convention’s existing definition of “disposal” covers all operations listed in Annex IV. It does not provide clear distinction between Annex IV A and Annex B operations. Certain additional terms need to be defined as they are used in Annex IV.</p> <p>Question 14: Any waste submitted to one of Annex IV A operations will not be reused. So, direct reuse is not relevant here.</p> <p>Question 16: If terminology is being changed to recovery operations, direct reuse doesn’t fit into this caption.</p> <p>Question 19: 1) waste used in the testing of new technology 2) Release, including the venting of compressed or liquefied gases.</p> <p>Question 21and 26: The definition of disposal is limited to operations listed in Annex IV to Basel Convention. The list of operations should therefore describe operations as they occur in practice in a manner which enables them to be identified easily.</p> <p>Question 22: D1 - deposit into or onto land and D5 - specially engineered landfill.</p> <p>Question 24: 1) Operations for recovery or regeneration of a substance not otherwise covered in the other recovery operations. 2) Operations to capture the reuse and/or the repair and/or the refurbishment of a piece of electrical and electronic appliances.</p> <p>Question 27: Reused not defined.</p> <p>Question 28: R1 - "use as a fuel" and R9 - ".....other reuses of previously used oil".</p>

	Question 29: 1) reuse, 2) recovery, 3) recycling.
Islamic Republic of Iran	Question 12: Some wastes are too similar to each other in two annexes that recognizing them from each other is very difficult.
Libya	No comments.
Madagascar	<p>Question 11: Elimination of heavy metal waste (Hg, Pb, Cd). The provision should be included in the Minamata Convention.</p> <p>Question 12: It is necessary to clarify and detail by products, substances generating the waste and / or waste in question. We must take into account the Minamata Convention.</p> <p>Question 13: And, it is necessary to clarify, to detail by type of products, contaminating or soiling substances, and/or waste.</p> <p>Question 14: Adopt the term in relation to the type of products, substances and/or wastes in questions.</p> <p>Question 15-16: But taking into account the kind of wastes.</p> <p>Question 17: The scope should be defined according to the type of waste to be disposed of.</p> <p>Question 18: Simplify with exact matching of waste type.</p> <p>Question 19: Disposal operations of heavy metals (Hg, Pb, Cd).</p> <p>Question 20: We should delete operations D3 and D6 because they are not environmental.</p> <p>Question 21: Is D4 environmentally sound?</p> <p>Question 22: The D3, D4 and D6, there are aquatic lakes just a few meters by the sea or the oceans or mouths (water brackish).</p> <p>Question 23: D5, in developing country, specially engineered landfill is almost not similar.</p> <p>Question 24: R4. We should separate heavy metals from metallic.</p> <p>Question 25: It is necessary to detail the R4 (Metallic, heavy metals).</p> <p>Question 26: R4.</p> <p>Question 27: Regeneration/value-creation/reuse.</p> <p>Question 28: But there are gaps in provisions or missing.</p>
Malaysia	No comments.
Mozambique	<p>Question 11: Is better to update, to get the harmonized procedures in legal instruments.</p> <p>Question 12: During or after two studies proposed in the question 10 we will see what we have to do exactly.</p> <p>Question 13: Because the content described in above summarizes into final disposal operation.</p> <p>Question 14: It's clear.</p> <p>Question 15: Because the content described in above summarizes into recovery operation.</p> <p>Question 16: It's also clear.</p> <p>Question 17: If applicable we can.</p> <p>Question 18: If applicable we can.</p> <p>Question 19: May be the two studies proposed in question 10 may decide about this.</p> <p>Question 20: At least no. May be the two studies proposed in question 10 may decide about this.</p> <p>Question 21: At least yes but the two studies may support us in this decision.</p> <p>Question 22: But I think there is no more.</p> <p>Question 23: It's very clear.</p> <p>Question 24: May be the two studies proposed in question 10 may decide about this.</p>

	<p>Question 25: At least no. May be the two studies proposed in question 10 may decide about this.</p> <p>Question 26: At least yes but the two studies may support us in this decision.</p> <p>Question 27: But I think we talking about the operation R9 talk about reuse.</p> <p>Question 28: But I think there is no more.</p> <p>Question 29: Used oil re-refining.</p>
<p>New Zealand</p>	<p>Question 17: If the heading is amended, then it would be helpful to have definitions in the introductory text, including in respect of 'direct re-use'.</p> <p>Question 18: If the heading is amended, then clarity on the intent of the section would be helpful in the introductory text, including in respect of 'direct re-use'.</p> <p>Question 19: The operation of import for export is missing. For example, New Zealand receives some wastes from Pacific Islands for subsequent export (eg to Europe) for final disposal.</p> <p>Question 21: D1 and D15 could be updated.</p> <p>Question 22: Conflicting text between D1 and D5 – these two should be distinct options, currently D5 is also D1.</p> <p>Question 23: A definition is needed of 'specially engineered landfill' in D5 and this needs to be excluded from D1.</p> <p>Question 24: The operation of import for later export is missing, and recovery of components not covered by R4 or R7. An example of this is the scavenging of components from e-waste and even from used and non-functional vehicles.</p> <p>Question 26: R12 and R13 appear to cover the same operation.</p> <p>Question 29: The term 'exchange' is not clear. Does this mean that the material is gathered but no disposal is yet decided or is it a code for passing to another disposer? In the latter case the code would apply to most transboundary movements. The former would not appear to give any assurance that the waste will be managed in an environmentally sound manner.</p>
<p>Norway</p>	<p>No comments.</p>
<p>Peru</p>	<p>Question 11: As stated in this document, we recognize that there could be new disposal operations that could be included in Annex IV. Also, it is possible that some disposal operations listed in the Annex are no longer practised.</p> <p>Question 13: The proposal would be consistent with the definition of "final disposal" in the Convention's glossary of terms to be considered by COP-13, in which "final disposal" refers to the operations specified in Annex IV.A of the Convention.</p> <p>Question 14: See question 14.</p> <p>Question 17: We suggest standardizing the writing style of the introductions to both sections to align them with the changes that are made or not made to the title of the section.</p> <p>Question 18: We suggest standardizing the writing style of the introductions to align them with the changes that are made or not made to the title of the section.</p> <p>Question 20: We note that operations D14 and D15 are part of the cycle of a disposal operation, while not constituting a disposal operation themselves. We suggest further evaluation of these operations.</p> <p>Question 21: We suggest evaluating the descriptions of disposal operations so that they more closely reflect the Convention's objectives of protecting human health and the environment.</p> <p>Question 25: We note that operations R12 and R13 are part of the cycle of a disposal operation, while not constituting a disposal operation themselves. We</p>

	<p>suggest further evaluation of these operations.</p> <p>Question 29: We suggest defining the term “exchange of wastes” in operation R12.</p>
Qatar	No comments.
Russian Federation	<p>Question 24: Use of organic waste and inorganic metal-containing.</p> <p>Question 29: Recovery.</p>
South Africa	Question 18: The description should be simple, similar to Section A. For example: Section B encompasses all such operations other than those defined or included in Section.
State of Palestine	Question 26: I think R13 and R12 are needing more elaboration.
Switzerland	<p>Question 12: E.g. For the distinction of D10 and R1 only national definitions exist. A harmonisation would be useful.</p> <p>Question 13: “Final disposal” table A contains also an operations to prepare wastes for final disposal D15 and D15.</p> <p>Question 14: See comment to question 16. See also question 2 point 4.</p> <p>Question 16: Direct re-use is not a waste treatment. If a waste fulfils technical and formal requirement of a product and it will be re-used for its intended usage it is not waste. However, if a recovery operation has to be applied to fulfil the product requirement it is waste.</p> <p>Question 18: The definition should also be applicable for other wastes not only hazardous wastes.</p> <p>Question 19: These will be identified in the discussions and are depending on new wording used clarifying existing entries.</p> <p>Question 20: These will be identified in the discussions and are depending on new wording used clarifying existing entries.</p> <p>Question 23: E.g. D10 vs. R1.</p> <p>Question 24: These will be identified in the discussions and are depending on new wording used clarifying existing entries.</p> <p>Question 25: E.g. R11, R12.</p>
Trinidad and Tobago	<p>Question 16: Some persons may not consider items destined for “re-use” as waste. Legal clarity is required for the definition of waste and how the Convention will address items destined for re-use.</p> <p>Question 17: A suggestion is “Section A encompasses operations used for the final disposal of wastes which are not destined for recovery”.</p> <p>Question 18: Suggestion is “Section B encompasses operations used to recover or recycle wastes which would have been destined for operations included in Section A”.</p> <p>Question 19: 1) Thermo-chemical process not specified elsewhere in this Annex. 2) Preparatory operations such as washing, shredding or baling are not defined. Only blending or mixing (D13) which may be interpreted as part of the processes of D8 (biological treatment) and D9 (physicochemical treatment).</p> <p>Question 20: 1) Operations D11 (incineration at sea) and D7 (release into seas/oceans) could possibly fall under the purview of the IMO (MARPOL Convention), and as such may be better regulated under those Conventions. 2) In addition operations D1, D4, D6 and D7 should be deleted as the convention</p>

should be promoting practices that are more environmentally sound, which based on the current descriptions of these operation this does not appear to be the case.

Question 21:

- D1 (deposit into or onto land e.g. landfill, etc.) and D5 (specially engineered landfill). D1 is interpreted to be a controlled dump site while D5 refers to an engineered site.
- D2 (land treatment e.g. biodegradation of liquid or sludgy discards in soils, etc.). Clarity needed on whether this refers to in-situ treatment only. Bio-remediated soil may be used as backfill in the construction of buildings and roads.
- D9 (physico chemical treatment): should be clearly defined to help with distinguishing it from other processes.
- D10 and D11 (incineration): should be elaborated to ensure measures are taken to ensure no disposal of by-products (ash etc.) in a non-environmentally sound manner, e.g. into water bodies etc.
- D13 (blending or mixing): These operations overlap with D8 and D9.
- D15 (storage pending operations in Section A): Storage is not a disposal operation.

Question 22: There is overlap in the interpretations as described in the previous questions.

Question 23: There is overlap in the interpretations as described in the previous questions.

Question 24: 1) Resource recovery from E-Waste 2) Since the D-Codes addressed preparatory operations then the R-Codes should state same. There is no mention of washing, shredding, sorting, baling or mixing which may be done prior to recovery operations.

Question 26: The segment (highlighted in green: "disposal") should read 'recovery operations' and not 'disposal operations'. The following are suggested:

- *R10 (land treatment resulting in benefit to agriculture or ecological improvement)*. This is interpreted to be similar to D2 operations. This excluded use of the treated material in construction – no clarity on whether ecological improvement refers to use in construction.
- *R4 (recycling/reclamation of metals and metal compounds) and R8 (recovery of components from catalysts)*: There is overlap as persons recover metals from catalysts.
- R7, R12 and R13 are vague.
- *R7 (recovery of components used for pollution abatement)*: Technical guidelines required on this.
- *R12 (exchange of wastes for submission to R1 to R11)*: Technical guidelines required on this.
- *R13 (accumulation of material intended for R1 to R12)*. The mirror D-Code is D15. Why the difference in the use of the word 'storage' and 'accumulation'?

Question 27: R9 is currently stated as "used oil re-refining or other reuses of previously used oil". This should be separated. "Used oil re-refining" should be changed to "Recovery of used oil". The "other reuses of previously used oil" requires clarification as used oil is usually comprised of mixed oils, water and sometimes chemicals. The impurities in used oil must be removed to some extent prior to reuse or sale. The most common application of used oil with impurities which have not undergone any recovery (re-refining or reclamation) is use as a fuel in incineration operations. The inclusion of the term reuses of previously used oil will lead to the recovery and recycling of contaminated oils. Thus, there is a need to define "other reuses".

Question 28:

- *R1: Use as a fuel (other than in direct incineration) or other means to generate energy*. "Direct incineration" must be defined and clarity is required on its relationship to D10 (incineration on land) and D11 (incineration at sea).
-

	<ul style="list-style-type: none"> • <i>R6: Regeneration of acids and bases.</i> Acids and bases may be organic and inorganic substances. R3 refers to the recycling/reclamation of organic substances and R5 refers to the recycling/reclamation of inorganic materials. • <i>R3: Recycling/reclamation of organic substances which are not used as solvents.</i> R8 refers to the recovery of catalysts. Catalysts can be organic substances. • Reference text used in D2 and R10. <p>Question 29: All of the operations listed should be defined.</p>
<p>Venezuela (Bolivarian Republic of)</p>	<p>Question 29: Hazardous Materials Recoverable, in our legislation we define this ends as follows: Material that covers Characteristics which, after serving a specific purpose, still retain useful physical and chemical properties and therefore it can be reused, recycled, regenerated or used for the same or different purpose.</p>
<p>Basel Action Network</p>	<p>Question 12: There is no legal basis to differentiate these in the Convention in that they managed identically in the Convention, so, no it is not needed.</p> <p>Question 13: The language "lead to the possibility of resource recovery etc." is problematic as landfills can be mined and we need to draw the line with different language. Further the use of Direct Reuse is wrong here (see notes below) Titles need not be so long. People can see what it contains below.</p> <p>Question 14: Direct Re-use is not a waste by definition so it should be removed.</p> <p>Question 15: The language "lead to the possibility of resource recovery etc." is problematic as landfills can be mined and we need to draw the line with different language. Further the use of Direct Reuse is wrong here (see notes below) Titles need not be so long. People can see what it contains below.</p> <p>Question 16: Direct Re-use is not a waste by definition so it should be removed.</p> <p>Question 17: Final Disposal should be more precisely defined in the Annex.</p> <p>Question 18: Recovery Operations should be more precisely defined in the Annex.</p> <p>Question 19: Perhaps minable landfill cells, various new types of heat techniques such as pyrolysis, plasma etc.</p> <p>Question 20: Even if practices no longer are found (e.g. ocean incineration) they can come back again so better to leave in place.</p> <p>Question 21: They look good.</p> <p>Question 23: They are all well understood.</p> <p>Question 24: Repair operations which produce hazardous residues or dispose of hazardous parts. Other forms of further use of the material or substance (this is needed as a catch all for using material as ballast, rip rap, art projects! etc.) Composting.</p> <p>Question 25: These all seem legitimate to us.</p> <p>Question 26: They look good.</p> <p>Question 27: We just think you need to remove the s at the end of the word.</p>

* Comments provided in Arabic, Chinese, Russian, Spanish, and French have been translated by Canada. For original submissions please refer to Basel website at:
<http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>

Related aspect of Annex IX

Entry B1110 Electrical and electronic assemblies

Question 30: Should the text be reviewed in relation to the term "direct reuse"?		
Yes <input type="checkbox"/> Afghanistan, Burundi, Canada, Chile, Colombia, Egypt, El Salvador, European Union, Hungary, India, Libya, Madagascar, Malaysia, New Zealand, Peru, Qatar, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	No <input type="checkbox"/> Azerbaijan, China, Islamic Republic of Iran, Russian Federation	Unsure <input type="checkbox"/> Burkina Faso, Mozambique, Venezuela (Bolivarian Republic of)
Question 31: Should footnotes 20 and 21 be reviewed in relation to the term "reuse and direct re-use"?		
Yes <input type="checkbox"/> Afghanistan, Azerbaijan, Burkina Faso, Burundi, Canada, Chile, Colombia, Egypt, El Salvador, European Union, Hungary, India, Islamic Republic of Iran, Libya, Malaysia, Mozambique, New Zealand, Peru, Qatar, South Africa, State of Palestine, Switzerland, Trinidad and Tobago, Basel Action Network	No <input type="checkbox"/> China, Madagascar, Russian Federation	Unsure <input type="checkbox"/> Venezuela (Bolivarian Republic of)
Respondent	Comments*	
Afghanistan	No comments.	
Azerbaijan	Question 31: These terms are similar in meaning. Other comments: No other comments.	
Burkina Faso	No comments.	
Burundi	Question 30: Because these parts when reassembled are not well defined in terms of "product" or "waste". Question 31: Make a good start in terms of "product" and "waste".	
Canada	Question 30: We acknowledge that the references to direct reuse in the text of entry B1110, in the caption text to Annex IV.B and to reuse in footnotes 20-21 create ambiguity and lead to different interpretations if electronic assemblies destined for direct reuse are subject to the Convention's provisions. The term direct reuse needs to be reviewed in entry B1110. We support the definition of direct reuse that was developed in the glossary of terms. Building on this definition the reference to direct reuse should be removed from the core text of B1110. Question 31: References to reuse and direct re-use should be examined. For example the use of the terms direct reuse and reuse in the footnotes appears to be the same. However, the glossary of terms suggests two separate definitions for these terms. In footnote 20, reference is made to operations which are not listed in Annex IV.B.	
Chile	Other comments: Including printed circuit board is mentioned 2 times, it is not clear why.	
China	Question 30: The concept of solid waste includes the concepts of space and time. Direct reuse of solid waste (solid scrapped material) may be viewed as a process which, by nature, brings about a shift in status of this material where it becomes a useful product at a different time and space. For example, in developed countries, computers,	

	<p>at a given point in time, change from being useful products to being solid waste. In developing countries, on the other hand, these scrapped computers, at some point in time, may turn into useful products by way of direct reuse. Direct reuse of solid scrapped material must satisfy a number of conditions, and in the countries which produce this material (exporting countries), there is no way to ensure that the conditions of the country where it will be used (the importing country) will be respected. For this reason, it is still scrap material at the time of exportation and not useful products and still needs to be treated as scrap material. Whether or not a solid waste item can be directly reused as a useful product is the decision of the importing country and not that of the exporting country. If a scrapped item is treated as a serviceable used product in the producing country (the exporting country), there is the possibility of a large amount of scrapped items not satisfying the conditions or standards of the country using it (the importing country) being imported through transboundary movement of waste matter under the name of "used products." In short, we feel that direct reuse is one possible means of handling solid waste matter, but the exporting country must treat this type of material as solid waste material. Whether or not it can be directly reused as used products would be determined by the conditions and standards established in each importing country.</p>
Colombia	<p>Question 30: Yes, but not just the term "direct reuse," but also the term "reuse." "Direct reuse" seems to imply the reuse of the elements without any kind of operation or treatment being necessary. In the case of electrical devices and...</p> <p>Question 31: Explanation given in question 30.</p>
Egypt	<p>Question 30: Clarify the operation from which there will be direct reuse.</p> <p>Question 31: Please write them in a clearer way and put examples for these operations.</p>
El Salvador	<p>Question 31: In direct reuse and reuse they are not clearly established and in both cases quantities can be generated Hazardous wastes that are beyond the scope of the Convention.</p>
European Union	<p>Question 30-31: The entry appears to indicate that assemblies destined for direct reuse may be waste. This is not consistent with the approach that has been agreed on an interim basis in the technical guidelines on e-waste and that is contained in the Glossary of terms and we would therefore suggest deletion of the references to reuse and direct reuse, including the footnotes 20 and 21.</p>
Hungary	No comments.
India	<p>Question 30: "Direct reuse" has to be separately defined and its definition must be different from that of reuse because of reuse can include repair, refurbishment or upgrading but not direct reuse. Further, all references to reuse e.g. in technical guidelines, must be accompanied by reference to direct reuse as well.</p> <p>Question 31: Direct reuse" and "reuse" terms need to be separately defined since reuse can include repair, refurbishment or upgrading but not direct reuse.</p>
Islamic Republic of Iran	No comments.
Libya	No comments.
Madagascar	Question 30: It will be according to the national definition of WEEE of each country.

	Question 31: It will be relative and in function of the national legislative framework. This will be difficult to pinpoint.
Malaysia	No comments.
Mozambique	Question 30: I'm not sure but bearing in mind that we are in process to review the some annexes, is better to review all the issues. Question 31: As I said above, we can.
New Zealand	Question 31: Yes, the distinction drawn in the footnotes suggests that direct reuse (which is a subset of reuse) involves items that are not waste. This can leave some items bound for reuse as waste. It is not clear how much repair, refurbishment and upgrading is needed before the term 'direct reuse' does not apply and hence the items are waste. The –e-waste guideline (especially the flow chart) gives some help but reflecting this in the footnotes/B110 and A1180 entries would be useful.
Norway	No comments.
Peru	Other comments: We suggest reviewing both terms to standardize the technical criteria between the Parties. Also, we suggest reviewing the translation into Spanish at the foot of page 20, as this could lead to confusion and incorrect application of the Convention.
Qatar	No comments.
Russian Federation	No comments.
South Africa	No comments.
State of Palestine	No comments.
Switzerland	Question 30: Direct reuse is not a waste treatment. Electric and electronic assemblies that are proven to be functional or require minor repair or refurbishment (i.e. software update) are not waste. However, major reassembly would be considered as waste treatment (disassembly and use of spare parts). Question 31: See comment to question 30.
Trinidad and Tobago	Question 30: This will impact how exporters categorize the material as 'waste' according to customs. Additionally, it is not clear what the term direct reuse means in the context of electronic and electrical waste items, which has been a long standing issues under the Convention. Does it mean a part or component that can be reused or does it mean parts or components that can be disassembled with smaller component parts derived thereof being reused in the manufacture of new component parts? Question 31: Both terms should be defined. What is the difference between direct reuse and re-use? See previous response.
Venezuela (Bolivarian Republic of)	No comments.
Basel Action Network	Question 30: Direct reuse is not defined correctly here in the Convention and is a jumble of confusion between the footnote which does not say "direct" despite it being placed over the words "direct reuse" And then of course there is the Title over IV.B,

implies that Direct Reuse is a waste is wrong. We must make it very clear everywhere that Direct Reuse is the only instance where something can be declared in the Convention as a non-Waste and direct reuse means further use of a fully functional product or material for its originally intended purpose. We would recommend the following:

- Strike footnote 21. (it is not appropriate to suggest Parties can derogate from the Convention's definitions, unless they are creating new (added) definitions of hazardous waste in accordance with the Convention.)
- Strike footnote 20. (in our work and understanding after years of practice in the field) we have learned that the line between major reassembly and other repair cannot be drawn and just creates confusion. Further, repairable equipment very often includes non-functional parts which by definition must be considered waste. So repair cannot be considered to be a non-waste in all cases. Upon a close look. This footnote is not needed.
- Strike footnote 19. (There is no reason not to include scrap from electrical power generation. If we can consider ships to be a waste as we have done, size should not be an issue here. So both in Annex VIII and IX, this exception is not a good idea.
- in both Annex VIII and IX there is some ambiguity using the words "contaminated with". Some people define this narrowly and there is no scientific basis to do so. We suggest borrowing from the Minimata Convention and using the terms "consisting of, containing, or contaminated with"
- Remove the bullet that speaks of "only metals and alloys." This is not useful because these metals could be hazardous. And in any case we cover this elsewhere in Annex IX.
- The title over IV B needs to be changed as suggested above.

Question 31: See above.

* Comments provided in Arabic, Chinese, Russian, Spanish, and French have been translated by Canada. For original submissions please refer to Basel website at:
<http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/tabid/4753/Default.aspx>

附件 13 創造家庭廢棄物環境友善管理的新解決方案



**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April –5 May 2017

Item 4 (e) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
international cooperation, coordination and partnerships:
Basel Convention Partnership Programme**

Creating innovative solutions through the Basel Convention for the environmentally sound management of household waste

Note by the Secretariat

I. Introduction

1. In paragraph 3 of decision BC-12/13, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal agreed to include in the work programme of the Open-ended Working Group of the Basel Convention the development of a workplan on the environmentally sound management of household waste with a focus on the needs of developing countries and countries with economies in transition. It also agreed that the workplan could include, but would not be limited to, the development of guidance documents and/or manuals on, inter alia, best practices, business models and innovative solutions for the circular economy in various socioeconomic contexts as well as a concept for a partnership to assist municipalities.

2. In paragraphs 4 and 5 of the same decision, the Conference of the Parties invited Parties and others to indicate to the Secretariat by 30 September 2015 their interest in actively participating in an informal group and requested the informal group to develop the workplan for consideration by the Open-ended Working Group at its tenth meeting.

3. In paragraph 6 of the same decision, the Conference of the Parties requested the Secretariat to facilitate work, subject to the availability of funds, on the development of the workplan by the informal group.

II. Implementation

4. Based on the discussions of the Conference of the Parties at its twelfth meeting and initial input from interested stakeholders, Mauritius and Uruguay, as lead sponsors of the initiative to develop a workplan, prepared a draft concept note entitled “Household waste partnership”, which was circulated to the participants in the informal group for their comments.

* UNEP/CHW.13/1.

5. The informal group held its first teleconference on 5 November 2015 and designated Mr. Prakash Kowlessar (Mauritius) and Ms. Gabriela Medina (Uruguay) to serve as co-chairs of the group. The group agreed to use the draft concept note referred to in paragraph 4 above as the basis for the development of a workplan on the environmentally sound management of household waste and a concept for a partnership to assist municipalities. The group further agreed to propose the establishment of a household waste partnership under the Basel Convention on the basis of the draft concept note. The informal group submitted a draft concept note for a household waste partnership, as revised by the group at its second teleconference on 26 February 2016, including a workplan for the biennium 2018–2019, for consideration by the Open-ended Working Group at its tenth meeting.

6. At its tenth meeting, the Open-ended Working Group considered the draft concept note for a household waste partnership (UNEP/CHW/OEWG.10/INF/14). By its decision OEWG.10/10, the Working Group, among other things, invited Parties and others to submit comments on the draft concept note to the Secretariat by 15 September 2016; requested the informal group to finalize the draft concept note, including terms of reference and a workplan for the biennium 2018–2019, taking into account the discussions during the tenth meeting of the Open-ended Working Group and comments submitted by Parties and others thereafter; and requested the Secretariat to prepare a draft decision on the establishment of a household waste partnership for consideration by the Conference of the Parties at its thirteenth meeting.

7. Thanks to generous financial support provided by the Governments of Japan and Switzerland, the informal group held its first face-to-face meeting in Montevideo from 2 to 4 August 2016. At that meeting, the group further developed the concept for the household waste partnership. The meeting report (UNEP/CHW/IGHW.1/3) is available on the website of the informal group.¹

8. At the meeting in Montevideo, the informal group considered, among other things, the need to revise the technical guidelines on wastes collected from households.² The informal group decided to recommend that the technical guidelines should not be revised, concluding that they were outdated and should be supplemented by a more comprehensive guidance document to be developed by the household waste partnership as described in the partnership workplan for the biennium 2018–2019.

9. As at 15 September 2016, the Secretariat had received comments on the draft concept note on the household waste partnership from Switzerland, the European Union and its member States, the International Environmental Technology Centre of the United Nations Environment Programme (UNEP) and the Bureau of International Recycling.

10. The informal group held its third teleconference on 26 September 2016 to finalize the draft concept note and terms of reference for the household waste partnership, as well as the workplan for the biennium 2018–2019, taking into account the outcome of the Montevideo meeting and the comments received.

11. As at 28 October 2016, 16 Parties, 4 intergovernmental organizations, 13 regional centres of the Basel Convention and the Stockholm Convention on Persistent Organic Pollutants, 2 industry associations and 3 non-governmental organizations were actively participating in the informal group.³ One Party has signalled its interest in participating in the group as an observer. A generous financial contribution in support of the work of the informal group has been received from the Government of Switzerland.

12. The draft concept note and the terms of reference for the household waste partnership are set out in document UNEP/CHW.13/INF/33, and the workplan for the biennium 2018–2019 is set out in the annex to the draft decision set out in section III of the present note.

1

<http://www.basel.int/Implementation/TechnicalAssistance/Partnerships/HouseholdWaste/Meetings/1stMeetingMontevideo,UruguayAug2016/tabid/5158/Default.aspx>.

² <http://www.basel.int/Portals/4/Basel%20Convention/docs/meetings/sbc/workdoc/old%20docs/tech-y46.pdf>.

³ <http://www.basel.int/Portals/4/download.aspx?d=UNEP-CHW-IMPL-Partnership-HouseholdWaste- InformalGroup-Members-20160810.En.pdf>.

III. Proposed action

13. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Welcomes* the work undertaken by the informal group on household waste towards the establishment of a household waste partnership under the Basel Convention;⁴
2. *Decides* to establish a working group of the household waste partnership that will be responsible, with the guidance of the Open-ended Working Group and in accordance with the terms of reference developed by the informal group on household waste,⁵ for overseeing organizational matters pertaining to the implementation of the partnership's activities, including the establishment of project groups and review of their work products and reports, serving as a forum for information sharing and taking the lead in awareness-raising, outreach and coordination in relation to activities undertaken by the partnership;
3. *Requests* the working group to implement the workplan set out in the annex to the present decision;
4. *Emphasizes* that the partnership does not have the authority to create additional or abrogate existing rights or responsibilities of Parties under the Basel Convention;
5. *Requests* the Secretariat:
 - (a) To facilitate and provide expertise to the partnership, subject to the availability of funds;
 - (b) To report on progress in the implementation of the present decision to the Open-ended Working Group at its eleventh meeting and the Conference of the Parties at its fourteenth meeting.

⁴ UNEP/CHW.13/15.

⁵ UNEP/CHW.13/INF/33, annex II.

Annex to decision BC-13/[]

Household waste partnership workplan for the biennium 2018–2019

The following tasks are to be undertaken by the working group of the household waste partnership and any project groups established thereunder:

- (a) Develop an overall guidance document on the environmentally sound management of household waste, compiling the key outcomes and recommendations resulting from the work of the project groups on:
 - (i) Best practices related to the environmentally sound management of household waste;
 - (ii) Mechanical biological treatment, energy recovery, management of sanitary landfills and compartmentalization to deal with various waste streams;
 - (iii) Assessment of current waste management systems, decision-making and ensuring the environmentally sound management of household waste;
 - (b) Collect case studies from various regions related to the topics addressed in the guidance document;
 - (c) Enhance awareness-raising and training on the environmentally sound management of household waste and enhance people's participation in household waste management activities and decision-making;
 - (d) Coordinate outreach activities and cooperation with other organizations working on household waste management.
-

附件 14 2018 年-2019 年工作計畫議程



Distr.: General
13 December 2016

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Thirteenth meeting**

Geneva, 24 April–5 May 2017

Item 4 (g) of the provisional agenda*

**Matters related to the implementation of the Convention: operations and work programme
of the Open-ended Working Group for the period 2018–2019**

**Work programme and operations of the Open-ended Working
Group for the biennium 2018–2019**

Note by the Secretariat

I. Introduction

**A. Work programme of the Open-ended Working Group for the biennium
2016–2017**

14. In paragraph 1 of its decision BC-12/19, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal adopted the work programme of the Open-ended Working Group for the biennium 2016–2017.

B. Operational options for the Open-ended Working Group

15. In the same decision, the Conference of the Parties decided that the tenth meeting of the Open-ended Working Group would be of four days' duration, with up to three days of plenary sessions with simultaneous interpretation provided to be applied flexibly by the Executive Secretary, and invited those in a position to do so to provide voluntary funding for further interpretation and translation of information documents if considered necessary by the Bureau. Parties and others were also invited to submit to the Secretariat, within two months of the end of the tenth meeting of the Open-ended Working Group, comments on experiences with regard to the arrangements for that meeting.

16. Also in the decision the Conference of the Parties requested the Secretariat to compile any comments received from Parties and others on experiences with regard to the arrangements for the tenth meeting of the Open-ended Working Group as well as comments made during that meeting and to submit them to the Conference of the Parties at its thirteenth meeting for its consideration.

17. Finally the Conference of the Parties resolved to adopt at its thirteenth meeting a decision on future institutional arrangements for the operations of the Open-ended Working Group, taking into account the comments received from Parties and others as mentioned in paragraph 3 above.

* UNEP/CHW.13/1.

II. Implementation

A. Work programme of the Open-ended Working Group for the biennium 2018–2019

18. In accordance with its usual practice, the Secretariat prepared a draft work programme of the Open-ended Working Group for the biennium 2018–2019 (UNEP/CHW/OEWG.10/12) for consideration by the Working Group at its tenth meeting.

19. In its decision OEWG-10/13, the Open-ended Working Group took note of the draft work programme, invited Parties and others to submit to the Secretariat comments on the draft work programme by 30 September 2016 and requested the Secretariat to make the comments available on the Basel Convention website and to revise the draft work programme, in consultation with the Bureau of the Working Group and the Bureau of the Conference of the Parties and taking into account the discussions at its tenth meeting, for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting. The comments submitted by Parties and others, as well as those submitted during the consultations with the Bureau of the Open-ended Working Group and the Bureau of the Conference of the Parties, have been made available on the Convention website¹ and are compiled document UNEP/CHW.13/INF/30.

20. Taking into account the comments received, and in consultation with the Bureau of the Open-ended Working Group and the Bureau of the Conference of the Parties to the Basel Convention, the Secretariat has revised the draft work programme as set out in the annex to the draft decision in section III of the present note. The draft work programme will be revised, as needed, during the thirteenth meeting of the Conference of the Parties to take into account the decisions adopted by the Conference of the Parties during the meeting.

B. Operational options for the Open-ended Working Group

21. In line with decision BC-12/19, the tenth meeting of the Open-ended Working Group was held over four days, and it included three days of plenary sessions with simultaneous interpretation and one day with no plenary sessions that was dedicated to contact and drafting groups. One of the three days of simultaneous interpretation for the plenary sessions was provided thanks to the generous financial support provided by the Government of Japan.

22. Pursuant to paragraphs 4 and 5 of decision BC-12/19, in order to collect the feedback from meeting participants about the arrangements for the tenth meeting of the Open-ended Working Group, the Secretariat carried out an online survey on the last day of that meeting. In addition, the Secretariat sent a letter dated 16 June 2016 inviting Parties and others to provide, by 2 August 2016, comments on experiences with regard to the arrangements for the tenth meeting of the Open-ended Working Group. A compilation of comments submitted by Parties and others is set out in document UNEP/CHW.13/INF/42.

III. Proposed action

23. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Adopts* the work programme of the Open-ended Working Group for the biennium 2018–2019 set out in the annex to the present decision;

2. *Takes note* of the comments received from Parties and others on experiences with regard to the arrangements for the tenth meeting of the Open-ended Working Group;²

3. *Decides* that the eleventh and subsequent future meetings of the Open-ended Working Group will be of four days' duration, with two days of plenary sessions with simultaneous interpretation provided, plus one additional day of plenary sessions with interpretation provided subject to the availability of resources, to be applied flexibly by the Executive Secretary, and invites those in a position to do so to provide voluntary funding for any interpretation not included in the core budget.

¹ <http://www.basel.int/tabid/5216/Default.aspx>.

² UNEP/CHW.13/INF/42, annex.

Annex to decision BC-13/[...]

Draft work programme of the Open-ended Working Group for 2018–2019³

<i>Topics</i>	<i>Activities</i>	<i>Mandate</i>	<i>Priority</i>
I. Strategic issues			
A. Strategic framework	Consider the report on the mid-term evaluation of the strategic framework for the implementation of the Basel Convention for 2012–2021.	Decision BC-13/[...]	Medium
B. Development of guidelines for environmentally sound management	Review the progress made in the implementation of the work programme of the expert working group on environmentally sound management.	Decision BC-13/[...]	High
C. Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes	<p>1. Review the progress that Parties and others have made in the implementation of the road map for action on the implementation of the Cartagena Declaration.</p> <p>2. Consider the revised draft guidance to assist Parties in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and their disposal.</p> <p>[3. Review the road map for action on the implementation of the Cartagena Declaration with reference to incorporation of details pertaining to recovery.]</p>	Decision BC-13/[...] Report of the Conference of the Parties on the work of its tenth meeting (UNEP/CHW.10/28, annex IV)	High High
II. Scientific and technical matters			

³ Text in brackets reflects either that a proposal pertaining to a new activity was put forward during the commenting and consultation period or that different options were put forward during the commenting and consultation period and would require a decision by the Conference of the Parties.

<i>Topics</i>	<i>Activities</i>	<i>Mandate</i>	<i>Priority</i>
A. Technical guidelines	<p>1. Undertake work towards a review of provisional low persistent organic pollutant content values in the technical guidelines referred to in decision BC-13/[...], as appropriate</p> <p>2. Update the general technical guidelines for the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants and prepare or update specific technical guidelines with regard to the chemicals listed in Annexes A, B and/or C to the Stockholm Convention on Persistent Organic Pollutants by decision[s] SC-8/[...] of the Conference of the Parties to the Stockholm Convention, including the following:</p> <p>(a) Establishment of levels of destruction and irreversible transformation for the chemicals necessary to ensure that when disposed of they do not exhibit the characteristics of persistent organic pollutants specified in paragraph 1 of Annex D to the Stockholm Convention;</p> <p>(b) Determination of which disposal methods constitute environmentally sound disposal as referred to in paragraph 1 (d) (ii) of Article 6 of the Stockholm Convention;</p>	Decision BC-13/[...]	High High
	<p>(c) Establishment, as appropriate, of the concentration levels of the chemicals in order to define for the Stockholm Convention low persistent organic pollutant content as referred to in paragraph 1 (d) (ii) of Article 6 of the Convention.</p>		
	<p>[3. Undertake further development of the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, to further explore options for addressing outstanding issues, in particular those listed in appendix V of the technical guidelines.]</p> <p>[3.alt Undertake work towards review of the draft revised technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, addressing issues referred to in appendix V of the guidelines and other outstanding issues.]</p>	Decision BC-13/[...]	High
	<p>4. Review the technical guidelines on incineration on land (D10), on specially engineered landfill (D5) and on hazardous waste physico-chemical treatment (D9) and biological treatment (D8).</p>	Decision BC-13/[...]	Medium
B. National reporting	<p>Consider progress in the revision of the practical guidance on the development of inventories for specific waste streams.</p>	Decision BC-13/[...]	High

<i>Topics</i>	<i>Activities</i>	<i>Mandate</i>	<i>Priority</i>
C. Amendments to the annexes to the Basel Convention	Consider and review any applications for changes and any corrections to the list of wastes in Annexes VIII and IX to the Convention.	Decision VIII/15	High
III. Legal, governance and enforcement matters			
A. Consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention	Consult with the Committee on the following activities of its work programme for the biennium 2018-2019: [to be inserted]	Decision BC-13/[...]	High
B. Providing further legal clarity	1. Consider recommendations on the review of Annex IV to the Convention and related issues under Annex IX to the Convention. 2. Consider recommendations on the review of Annexes I and III to the Convention.	Decision BC-13/[...]	High Medium
IV. International cooperation and coordination			
A. Basel Convention Partnership Programme	Consider progress made with, and provide guidance on the implementation of, the work plan of the working group of the household waste partnership established by the Conference of the Parties at its thirteenth meeting.	Decision BC-13/[...]	High
B. Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System	Consider progress achieved with regard to the inclusion of Basel Convention wastes in the World Customs Organization Harmonized Commodity Description and Coding System.	Decision BC-13/[...]	Medium
V. Programme of work and budget			
Financing and budget for the biennium 2018–2019	Consider the report by the Secretariat on all sources of income received, including the reserve and fund balances and interest, together with actual, provisional and projected expenditures and commitments and the report by the Executive Secretary on all expenditures against the agreed budget lines.	Decision BC-13/[...]	Medium