



Distr.: General  
16 December 2003

Original: English

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**Open-ended Working Group of the Basel Convention on the Control of  
Transboundary Movements of  
Hazardous Wastes and  
Their Disposal**  
Second session  
Geneva, 20-24 October 2003

## **Report of the Open-ended Working Group of the Basel Convention on the work of its second session**

### **I. Opening of the meeting (item 1)**

1. Mr. Dessalegne Mesfin, Co-Chair (legal) of the Open-ended Working Group of the Basel Convention, opened the second session of the Open-ended Working Group at 10.25 a.m. on Monday, 20 October 2003.
2. He introduced the Executive Secretary, Ms. Sachiko Kuwabara-Yamamoto, who welcomed participants to the session. In her opening remarks, Ms. Kuwabara-Yamamoto congratulated the five new Parties that had ratified the Convention since the beginning of 2003, bringing the number of signatories to 158. There had also been five new ratifications of the amendment contained in decision III/1 (Ban Amendment). Two countries had ratified the Basel Protocol on Liability and Compensation.
3. She stressed that, to speed up implementation of the Strategic Plan for the Implementation of the Basel Convention and project proposals under it, it was important for all Governments hosting Basel Convention regional centres to finalize framework agreements covering their establishment. The New Partnership for African Development (NEPAD) had called for the centres to be strengthened to achieve the aims of the Basel Convention and similar agreements. In response, the United Nations Environment Programme (UNEP) and the Basel Convention were preparing a capacity-building project for those centres for submission to the Global Environment Facility (GEF). With regard to the financial base of the Strategic Plan, she commended Denmark's initiative in preparing a draft guidance note on financial resource mobilization (contained in document UNEP/CHW/OEWG/2/INF/15).
4. Turning to the issue of the Protocol, she said that the Secretariat had prepared a first draft of a n implementation manual and was planning two regional workshops on the Protocol before the next Conference of the Parties. In addition, it was working on an analysis of Annex VII, which should also be concluded in time for the Conference. She noted that the pace of ratification of the Ban Amendment in various regions was proceeding slowly. On the legal aspects of the dismantling of ships, she stressed the need for proper consultation with such international agencies as the International Maritime Organization (IMO) and the International Labour Organization (ILO), both of which had developed guidelines on practices involved.

5. Turning to the issue of the Convention's guidelines on persistent organic pollutants (POPs), including those on PCBs, PCTs and PBBs, she thanked Canada for its input and contributions and stressed the need to advance the preparation of the guidelines so that they were ready for the first meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants. She thanked Australia for indicating its willingness to serve as lead country for the technical guidelines on dioxins and furans and expressed her hope that other Parties would volunteer to lead in preparing guidelines on other specific substances. With regard to public and private partnerships, another issue before the current session, she commended such arrangements as an innovative mechanism for raising practical and financial support for the Convention's objectives.

6. She thanked all Parties that had paid their contributions to the Basel Convention Trust Fund on time and urged other Parties to follow suit. She also thanked Australia, Denmark, the Netherlands, Norway, Sweden and Switzerland for their contributions to the Technical Cooperation Trust Fund, but noted that pledges for that fund still remained very low. In particular, she commended the Shields Environmental Group of the United Kingdom of Great Britain and Northern Ireland as the first corporate donor to the Mobile Phone Partnership Initiative and recognized contributions by Austria, Japan, Switzerland and Australia. In conclusion, she announced a number of staff appointments and pledged the Secretariat's full support over the course of the session.

## **II. Adoption of the agenda (item 2)**

7. The Working Group adopted the provisional agenda of the session, as contained in document UNEP/CHW/OEWG/2/1 and as set out below:

1. Opening of the session.
2. Adoption of the agenda.
3. Organization of the session.
4. Strategic Plan for the Implementation of the Basel Convention.
5. Basel Protocol on Liability and Compensation.
6. Guidance elements for bilateral, multilateral or regional agreements or arrangements.
7. Legal aspects of the full and partial dismantling of ships.
8. National definition of hazardous wastes (article 3 of the Basel Convention).
9. Analysis of issues related to Annex VII.
10. Initiation of work on the scope of Annex II.
11. Annex IX to the Basel Convention.
12. Partnership with environmental non-governmental organizations and with the industry and business sectors.
13. Preparation of technical guidelines on the environmentally sound management of persistent organic pollutants as waste.
14. Other matters.
15. Adoption of the decisions and the report.
16. Closure of the session.

### III. Organization of the session (item 3)

#### A. Attendance

8. The session was attended by representatives of the following Parties to the Convention: Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, European Commission, Finland, France, Gambia, Georgia, Germany, Ghana, Guatemala, Guinea, Honduras, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lebanon, Madagascar, Malaysia, Mauritius, Mexico, Monaco, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Lucia, Senegal, Serbia and Montenegro, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen and Zambia.

9. The following States not party to the Convention were represented: Haiti, Iraq, Myanmar and the United States of America.

10. Observers from the following United Nations bodies, specialized agencies and intergovernmental organizations were also present: Food and Agriculture Organization of the United Nations (FAO), International Labour Organization (ILO), Office of the United Nations High Commissioner for Human Rights, Organization for the Prohibition of Chemical Weapons (OPCW), United Nations Conference on Trade and Development (UNCTAD), United Nations Economic Commission for Europe (UNECE), United Nations Environment Programme (UNEP) and the United Nations Institute for Training and Research (UNITAR).

11. The following intergovernmental organizations were represented: South Pacific Regional Environment Programme (SPREP) and the World Trade Organization (WTO).

12. The following non-governmental organizations and private sector organizations were represented: American Chemistry Council (ACC), Associated Press Managing Editors (APME), Basel Action Network (BAN), Bureau of International Recycling (BIR), COWI A/S, Environmental Cooperation Pilot Programme (ECP), Greenpeace International, Institute of Environment and Resources (IER), International Precious Metals Institute (IPMI) and the World Chlorine Council (WCC).

13. Representatives of the following Basel Convention Regional Centres also attended: China, El Salvador, Indonesia and Slovakia.

#### B. Organization of work

14. The Working Group conducted the session in plenary meeting on the understanding that informal working groups would be set up as required.

15. As decided by the Conference of the Parties in its decision VI/36, the second session of the Open-ended Working Group focused on legal and implementation issues.

16. The Bureau, as appointed at the first session of the Working Group, was constituted as follows:

Co-Chairs:	Mr. Dessalegne Mesfin (Ethiopia) (legal) Ms. Krystyna Panek-Gondek (Poland) (technical)
Vice-Chairs:	Mr. Geoff Thompson (Australia) (technical) Mr. Mauricio García Velasco (Mexico) (legal)
Rapporteur:	Mr. Peiman Seadat (Islamic Republic of Iran)

17. Speaking on behalf of the group of Latin American and Caribbean countries, the representative of Argentina expressed their concern at the inclusion in the agenda for the current session of a number of technical issues. That was inconsistent with decision VI/36 of the Conference of the Parties, which provided that the current session would deal primarily with legal issues, and would limit the depth of the treatment of such issues, owing in particular to the financial constraints faced by developing country Parties, which had problems sending both technical and legal experts to a single session of the Working Group. She expressed the hope that, in the light of those concerns, simultaneous meetings of the various contact groups to be set up during the session would be kept to a minimum so as to enable developing country Parties to participate in the contact groups with respect to all issues. On a positive note, she applauded the provision of translation and interpretation in all the official United Nations languages for the Working Group, and stressed the importance of continuing that arrangement.

#### **IV. Strategic Plan for the Implementation of the Basel Convention (item 4)**

18. The Working Group took up the item at its first plenary meeting, on the morning of Monday, 20 October.

19. The Working Group had before it a note by the Secretariat on the Strategic Plan for the Implementation of the Basel Convention (UNEP/CHW/OEWG/2/2), a compilation prepared by the Secretariat of project proposals submitted by Parties and Basel Convention regional centres for funding under the Strategic Plan (UNEP/CHW/OEWG/2/INF/3), a note by the Secretariat suggesting possible language for a decision on a draft guidance note on a framework for mobilizing financial resources for the implementation of the Convention (UNEP/CHW/OEWG/2/2/Add.1), and the draft guidance note itself (UNEP/CHW/OEWG/2/INF/15), which was prepared by a consultant commissioned by the Government of Denmark.

20. The Co-Chair (legal) briefly introduced the item, noting that the task of the Group was to determine which projects should be funded and the level of funding, given the available amount of \$320,000. The representative of the Secretariat briefly reviewed the status of the 15 projects for which the Working Group had approved funding at its first session, reporting that arrangements to commence 13 of the 15 were in the final stages of completion. While problems remained with respect to appropriate documentation for the remaining two projects, he hoped that those would be resolved and confirmed that the Secretariat was working closely with the Governments and regional centres concerned. A number of representatives voiced their views on the relative merits of some of the proposed projects, following which the Group established a contact group on the issue. The contact group, under the chairmanship of Australia, was asked to make recommendations on the projects to be funded and the amount of funding, and also to consider the development of a standard reporting format to be used by the Secretariat in periodically reporting on the status of approved projects.

21. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it heard a report from the chair of the contact group. At the same meeting, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper, as orally amended. The decision as adopted is set out as decision OEWG-II/1 in annex I to the present report.

22. In relation to funding for implementation of the Strategic Plan, the Danish consultancy firm, COWI Consult, which had been engaged by the Government of Denmark, gave a presentation on a draft guidance note that it had prepared (UNEP/CHW/OEWG/2/INF/15).

23. The presentation prompted considerable debate, with a number of representatives of developing countries voicing the view that the Convention lacked a solid financial base. While they thanked the Government of Denmark and COWI Consult for the guidance note, they suggested that the funding sources described in the note were still inadequate: what was really needed was access to significant and reliable funding such as that provided by GEF. Given the global significance of the Convention, it was essential that it have the best possible financial mechanism. It was therefore suggested that the steps necessary to secure GEF as the Convention's financial mechanism be investigated and that other potential funding sources also be explored.

24. Two representatives, speaking on behalf of groups of countries, asked that the Secretariat prepare a paper for the Working Group's consideration at its third session on the available options for securing funding and establishing a financial mechanism for the Convention. In addition, the representative of Denmark asked that the draft guidance note be translated into the official United Nations languages and that the Secretariat consider how best to make use of the draft guidance note for the forthcoming seventh session of the Conference of the Parties.

## **V. Basel Protocol on Liability and Compensation (item 5)**

25. The Working Group took up the item at its first plenary meeting, on the morning of Monday, 20 October.

26. The Working Group had before it a note by the Secretariat on implementation of the Basel Protocol on Liability and Compensation (UNEP/CHW/OEWG/2/3) and a first draft of an instruction manual prepared by the Secretariat on implementation of the Protocol (UNEP/CHW/OEWG/2/INF/4).

27. In introducing the item, the Co-Chair (legal) noted that few countries had yet ratified the Protocol. On a positive note, he thanked the Government of Switzerland for providing financial support for the five regional meetings on implementation of the Protocol called for by the Conference of the Parties in appendix II of its decision VI/15.

28. During discussion of the item, a number of representatives reported on the status of implementation of the Protocol in their countries, with many indicating that ratification was expected in the near future. A number of countries stressed the importance of the planned regional workshops and expressed their keen desire that they be held in their regions. Some suggested that the workshops should not take place until further work had been done to refine the manual on implementation of the Protocol, which was only a first draft stage, or until countries had had a chance to complete their consideration of implementation of the Protocol at the national level.

29. Some delegations raised the question as to whether the draft manual would be made available in all the United Nations official languages, thereby enabling them to comment on it more substantively. It was agreed that, once revised, the text of the draft manual would be translated into all the United Nations official languages in time for its consideration by the Open-ended Working Group at its third session. Delegations were invited to submit written comments to the Secretariat on the existing draft by 31 December 2003.

30. The Working Group agreed to establish a contact group, chaired by Canada, to review the first draft of the instruction manual contained in document UNEP/CHW/OEWG/2/INF/4. The Working Group agreed further that the contact group should produce recommendations for consideration by the Working Group on how the draft manual could be improved, but should not at that stage undertake to revise the text of the draft manual.

31. The chair of the contact group reported to the Working Group at its fifth plenary meeting, on the afternoon of Wednesday, 22 October, that the contact group had agreed on suggestions for improvement of the draft instruction manual, which she briefly outlined. A report by the chair on the outcome of the contact group's work may be found in annex II to the present report.

32. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it adopted a decision on the item on the basis of the draft contained in document UNEP/CHW/OEWG/2/3, as orally amended. The decision as adopted is set out as decision OEWG-II/2 in annex I to the present report.

## **VI. Guidance elements for bilateral, multilateral or regional agreements or arrangements (item 6)**

33. The Working Group took up the item at its third plenary meeting, on the morning of Tuesday, 21 October.

34. In considering the item, the Working Group had before it a note by the Secretariat on draft guidance elements for bilateral, multilateral or regional agreements or arrangements (UNEP/CHW/OEWG/2/4). The Co-Chair (legal) introduced the item, drawing particular attention to article 11 of the Convention and to the fact that very few parties had submitted comments on the draft guidance elements. While some parties felt that the issue of the draft guidance elements was important and work on them should continue, the general view was that a sufficiently long time had been spent debating the draft guidance elements (eight years) and that, if agreement could not be reached on them in the near future, the item should be set aside altogether. It was noted that much could be learned from existing bilateral agreements, which could be posted on the Basel Convention web site ([www.basel.int](http://www.basel.int)).

35. It was suggested that efforts should be concentrated on environmentally sound management rather than the guidance elements, which would be more in line with the provisions of article 11 of the Convention. The Co-Chair requested the Secretariat to prepare a draft recommendation for submission to the Conference of the Parties at its seventh plenary meeting, stating that work on the draft guidance elements should cease. The Co-Chair also asked Argentina, New Zealand and the Republic of Korea to prepare a recommendation that would address the concerns of all delegations for consideration by the Working Group during the current session.

36. Under the item, the Executive Secretary drew attention to the issue of the agreement between Germany and the NATO Kosovo Force (KFOR) on the removal from Kosovo of hazardous wastes and confirmed that, according to an opinion of the United Nations Office for Legal Affairs dated 28 May 2003, the agreement – which would be included in the list of bilateral, multilateral or regional agreements or arrangements – was in full conformity with Security Council resolution 1244 (1999), which established the United Nations interim administration mission in Kosovo (UNMIK) and permitted the conclusion of international agreements to achieve its mandate. The representative of Serbia and Montenegro pointed out that her Government had not received a copy of the opinion of the United Nations Office for Legal Affairs and expressed that view that, until that situation was rectified, it would be premature to include the agreement in the list.

37. At the Working Group's fifth plenary meeting, on the afternoon of Wednesday, 22 October, the representative of New Zealand reported that she and the representatives of Argentina and the Republic of Korea had consulted with other interested parties and had agreed on a draft decision for the consideration of the Working Group recommending that the Conference of the Parties discontinue any further work on developing guidance elements for bilateral, multilateral and regional agreements and inviting Parties experiencing specific problems relating to article 11 arrangements and agreements to seek assistance from the Secretariat. Following a debate, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper, the text of which is set out as decision OEWG-II/3 in annex I to the present report.

## **VII. Legal aspects of the full and partial dismantling of ships (item 7)**

38. The Working Group took up the item at its second plenary meeting, on the afternoon of Monday, 20 October.

39. The Working Group had before it a note by the Secretariat on the legal aspects of the full and partial dismantling of ships (UNEP/CHW/OEWG/2/5) and a cover note by the Secretariat (UNEP/CHW/OEWG/2/INF/10) enclosing an excerpt from the report of the Marine Environment Protection Committee on its forty-ninth session, draft IMO guidelines on ship recycling and a related IMO Assembly resolution, and a list of future IMO work items on ship dismantling.

40. The Executive Secretary introduced the item and reviewed how ship dismantling had been treated under the Convention thus far. Emphasizing the need for tangible progress on the issue, she called for enhanced cooperation with IMO, ILO and the Basel Convention constituencies, and suggested the creation of an inter-sessional working group of interested Parties and others, the task of which would be to advance the issue of the legal aspects of ship dismantling and produce a document for consideration by the Open-ended Working Group at its third session.

41. In the ensuing discussion, there was broad agreement that the dismantling of ships was increasingly important, as it was widespread and posed significant risks to human health and the environment, and that there was a need for legally and technically comprehensive guidance on ship dismantling. The issue was of particular concern to developing countries owing to the financial and technical constraints on their ability to ensure the environmentally sound dismantling of ships. In addition, attention was drawn to the problems posed for small island developing States by the sinking of ships for the creation of artificial coral reefs. All who spoke agreed with the proposal of the Secretariat to establish an inter-sessional working group and that it was important to work closely with IMO, ILO and others (although there was also a need to avoid duplication of effort with these bodies), and many suggested that a contact group also be established to work on the issue during the current session and pave the way for the work of the inter-sessional group. Others urged that the mandate of the inter-sessional working group be expanded beyond that suggested in paragraph 14 of document UNEP/CHW/OEWG/2/5 to include, among other things, future work identified by IMO; it was also urged that the group give due attention to the polluter pays principle and the responsibility of flag States and ship owners, and that it suggest solutions to the questions posed in paragraph 14.

42. The representative of an environmental non-governmental organization reviewed recent cases involving the export of old ships for breaking, in which Parties had had to rule that the ships needed to be cleaned of hazardous wastes before reaching the breaking yards or be returned to the port of export. He also explained that lack of clarity on the legal status of ships destined for dismantling led to illegal practices and drew attention, in particular, to a fatal accident involving one such ship which, in his organization's view, illustrated the gravity of the problem. Noting the lack of clear international guidance on the issue, which, on the one hand, gave perpetrators a loophole to continue exporting end-of-life ships contaminated with toxic wastes and, on the other, forced countries to resort to unilateral or bilateral measures to combat the problem, he called for a decision at the current session to recognize, once and for all, that end-of-life ships were waste.

43. The Working Group agreed to establish both a contact group to work during the current session, chaired by the representative of Romania, and an inter-sessional working group to report to the Working Group at its third session.

44. The Working Group took up the item again at its eighth plenary meeting, on the afternoon of Friday, 24 October, at which time it adopted a decision on the item on the basis of the draft contained in the relevant conference room paper. The decision as adopted is set out as decision OEWG-II/4 in annex I to the present report.

## **VIII. National definitions of hazardous wastes (article 3 of the Basel Convention) (item 8)**

45. The Working Group took up the item at its third plenary meeting, on the morning of Tuesday, 21 October.

46. In considering the item, the Working Group had before it a note by the Secretariat on national definitions of hazardous wastes under article 3 of the Convention (UNEP/CHW/OEWG/2/6). In response to uncertainties expressed by some representatives regarding reporting requirements, the Co-Chair (legal) explained that the reporting under article 13 and that under article 3 were complementary. Some delegations requested the inclusion of a paragraph to that effect in the draft decision on the issue. Noting that very few countries had yet complied with article 3, the Co-Chair urged all parties to take steps to that end.

47. Germany volunteered to prepare a draft standardized format for reporting information under article 3, similar to that used for reporting under article 13. In the ensuing discussion of the schedules for posting and updating information on the internet, some delegations favoured early and clear deadlines, falling after the seventh meeting of the Conference of the Parties. The Secretariat agreed that information could be submitted in any of the six official languages of the United Nations. One delegation stated that reporting should not be arbitrary; applicable national legal requirements, where they existed, should be cited.

48. Attention was also drawn to the capacity problems of developing countries and countries with economies in transition in drafting legislation and their difficulties in fulfilling reporting requirements.

49. It was pointed out that the Secretariat should assist Parties in making the notified information clear. It was also suggested that Parties should provide the required information on the import prohibitions set out in article 4, paragraph 1, that such information should be as clear as possible, and that the Secretariat should assist Parties in the process.

50. The Working Group debated the draft decision on the item at its fifth plenary meeting, on the afternoon of Wednesday, 22 October, at which time a number of amendments were suggested.

51. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it heard a report from the chair of the contact group on the group's deliberations. At the same meeting, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper. The decision as adopted is set out as decision OEWG-II/5 in annex I to the present report.

## **IX. Analysis of issues related to Annex VII (item 9)**

52. The Working Group took up the item at its third plenary meeting, on the morning of Tuesday, 21 October.

53. The Working Group had before it a note by the Secretariat setting forth a draft decision for adoption by the Working Group and annexing a first draft of an analysis prepared by the Secretariat of issues related to Annex VII of the Convention (UNEP/CHW/OEWG/2/7).

54. Introducing the item, the Executive Secretary explained that in its analysis the Secretariat had identified those points that it felt were most relevant in the light of the eight evaluation elements set out in the terms of reference for phase II of the analysis, and that it had also identified several areas that might require further development with respect to which it particularly sought the guidance of the Parties.

55. Many Parties praised the Secretariat's analysis, but several were of the view that there were areas in which it could be amplified and otherwise improved and specific suggestions were made to that end. Several emphasized the need to bear in mind the main purpose of the analysis, which was to assist countries in their efforts to ratify and implement the Ban Amendment.

56. Considering the observations made during the discussion, the Working Group agreed to establish a contact group, chaired by the representative of Egypt, to identify issues in the first draft of the analysis that could be further expanded or revised in a way that would help Parties and others to provide relevant comments.

57. The representative of an environmental non-governmental organization commended the countries that had most recently ratified the Ban Amendment and pointed out that the rate of ratification of the Amendment compared well with that of other international instruments. He also noted that the addition of case-studies had introduced an imbalance in the analysis, which should be corrected with examples representing different points of view and economic analyses demonstrating the costs of pollution and impacts on human health.

58. The Working Group took up the item again at its seventh and eighth plenary meetings, on the morning and afternoon of Friday, 24 October. At its seventh meeting, the group heard a report from the chair of the contact group. A written report of the contact group's deliberations is attached as annex III to the present report. At its eighth meeting, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper, as orally amended. The decision as adopted is set out as decision OEWG-II/6 in annex I to the present report.

## **X. Initiation of work on the scope of Annex II (item 10)**

59. The Working Group took up the item at its fifth plenary meeting, on the afternoon of Wednesday, 22 October.

60. In considering the item, the Working Group had before it a note by the Secretariat on the initiation of work on the scope of Annex II (UNEP/CHW/OEWG/2/8), which the Co-Chair (technical) introduced, drawing attention to the three options proposed in the note for future work on the issue.

61. Of the suggestions made in the debate that followed, most support was voiced for the proposal that the technical guidelines on wastes collected from households (Y46) should not only be updated, but also revised and rendered much more comprehensive. A few delegations considered that case studies on implementation might also be useful, while others considered that such studies would be too specific.

62. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it adopted a decision on the item on the basis of the draft contained in the relevant conference room paper, as orally amended. The decision as adopted is set out as decision OEWG-II/7 in annex I to the present report.

## **XI. Annex IX to the Basel Convention (item 11)**

63. The Working Group took up the item at its fifth plenary meeting, on the afternoon of Wednesday, 22 October.

64. The Co-Chair (technical) introduced the item and referred to the note by the secretariat relating to Annex IX of the Convention, UNEP/CHW/OEWG/2/9. She requested Parties that had not yet done so to fill in the questionnaire concerning national classification and control procedures and submit it to the Secretariat by 15 December 2003 but clarified that this was a voluntary procedure. Several speakers stressed that the decision to be adopted on the item should reflect the fact that the procedure was not mandatory.

65. In response to an observation by one representative that, as demonstrated by the compilation of Parties' responses to the national classification and control procedures questionnaire contained in background document UNEP/CHW/OEWG/2/INF/5, there were many discrepancies between the answers given in the European Community questionnaire and those provided in the Basel Convention questionnaire, the Co-Chair agreed that there was a need for future clarification on that issue.

66. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it adopted a decision on the item on the basis of the draft contained in the relevant conference room paper. The decision as adopted is set out as decision OEWG-II/8 in annex I to the present report.

## **XII. Partnership with environmental non-governmental organizations and with the industry and business sectors (item 12)**

67. The Working Group took up the item at its seventh plenary meeting, on the morning of Thursday, 23 October.

68. In considering the item, the Working Group had before it a note by the Secretariat on partnership with environmental non-governmental organizations and with the industry and business sectors (UNEP/CHW/OEWG/2/10) and an information document on the Basel Convention partnership programme (UNEP/CHW/OEWG/2/INF/7) containing comments from industry and non-governmental organizations on the draft work programme on partnerships.

69. Introducing the item, the Co-Chair (technical) recalled that stakeholders had been invited to comment on the documents. The discussion that followed revealed general support for provisional adoption of the work programme, pending final discussion at the third session of the Open-ended Working Group, although some representatives wanted final adoption at the current session. There was

particular support for two amendments, the first designed to ensure that partnership agreements came under the authority and guidance of the Conference of the Parties, and the second to emphasize that no element or activity of any partnership should be understood as in any way modifying the system of rights and obligations laid down under the Convention. Following those and other suggested amendments to the programme of work, the Working Group agreed to establish a drafting group [*DELETION*], chaired by the representative of Chile, further to refine the draft work programme during the current session.

70. The representative of Switzerland gave a progress report on the Mobile Phone Partnership Initiative, the text of which is contained in annex VII to the present report. The United States representative briefly reviewed awareness and training project 4.1 (A) on the environmentally sound design of mobile phones under the Initiative, for which the United States was acting as lead country. Project participants, including Governments, manufacturers, recyclers, industries and academic bodies, had agreed on the purpose of the project, which was to raise awareness of mobile phone design issues affecting end-of-life management, and had completed a draft document identifying barriers to and opportunities for improvement of mobile phone design for the use of Governments, industries, non-governmental organizations and universities.

71. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it heard a report from the chair of the drafting group on the group's deliberations. At the same meeting, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper. The decision as adopted is set out as decision OEWG-II/9 in annex I to the present report.

### **XIII. Preparation of technical guidelines on the environmentally sound management of persistent organic pollutants as wastes (item 13)**

72. The Working Group took up the item at its fourth plenary meeting, on the afternoon of Tuesday, 21 October.

73. The Working Group had before it a note by the Secretariat on the preparation of technical guidelines on the environmentally sound management of POPs as wastes (UNEP/CHW/OEWG/2/11), a note by the Secretariat on the preparation of technical guidelines on the environmentally sound management of PCBs, PCTs and PBBs (UNEP/CHW/OEWG/2/11/Add.1), draft general technical guidelines for the environmentally sound management of wastes consisting of, containing or contaminated with POPs (UNEP/CHW/OEWG/2/INF/6), draft technical guidelines on the environmentally sound management of PCBs, PCTs and PBBs (UNEP/CHW/OEWG/2/INF/12) and a conference room paper submitted by Canada on the environmentally sound management of POPs as wastes.

74. The Co-Chair (technical) introduced the item and the related documentation. She reminded the Working Group that, as the item was a technical one, the Group was to consider it at the current session but was not to render a final decision on it. The Executive Secretary then reviewed the Group's treatment of the item to date, including continuing inter-sessional work led by Canada that had led to the current draft of the two sets of guidelines. She also announced that Australia had agreed to act as lead country for the preparation of draft technical guidelines on dioxin and furans and that Mexico had agreed to do the same with respect to draft technical guidelines on DDT.

75. The representative from Canada then outlined the work that had been done on the two sets of draft guidelines (UNEP/CHW/OEWG/2/INF/6 and UNEP/CHW/OEWG/2/INF/12). During the ensuing discussion, representatives suggested issues that needed to be further addressed in the draft guidelines, including the definition of disposal under both the Basel Convention and the Stockholm Convention, options for defining low POPs content, the dispersal of POPs on land, as in the case of fertilizers, disposal of POPs in an environmentally sound manner and the need to optimize the utility of the guidelines for both the Basel and the Stockholm Conventions.

76. Noting that considerable room for improvement of the guidelines remained and that the inter-sessional work led by Canada was to continue, the Working Group agreed to establish a contact group, chaired by the representative of Germany, to provide further suggestions for improvement of the guidelines during the current session.

77. The Working Group continued its debate on the item at its seventh plenary meeting, on the morning of Friday, 24 October, at which time it heard a report from the chair of the contact group on the group's deliberations. A written report of the contact group's deliberations is attached as annex IV to the present report. At the same meeting, the Working Group adopted a decision on the item on the basis of the draft contained in the relevant conference room paper. The decision as adopted is set out as decision OEWG-II/10 in annex I to the present report.

78. Prior to adoption of the decision, one representative suggested that table 2 annexed to the decision, listing provisional definitions of low POP content suggested by various Parties and others, should state for each definition the method of analysis used to determine POP concentration levels. It was agreed that Parties and others should send this and similar comments to the Secretariat and to Canada as provided in the decision.

79. Following adoption of the decision on the item, the representative of the United States announced that his Government would provide a paper on the United States Environmental Protection Agency regulations cited in the decision, and that, by 30 November 2003, it would also nominate an expert to participate in the inter-sessional working group to be established under the decision.

#### **XIV. Other matters (item 14)**

80. At the Working Group's fifth plenary meeting, on the afternoon of Wednesday, 22 October, the Secretariat presented a number of information documents. They included a note by the Secretariat on the lists of wastes of the Basel Convention and their identification in the World Customs Organization Harmonized Commodity Description and Coding System (UNEP/CHW/OEWG/2/INF/9), an application from the Government of India for the placement of new entries regarding plastic-coated cable scrap in Annexes VIII and IX (UNEP/CHW/OEWG/2/INF/11), a report by the Secretariat on cooperation with the World Trade Organization (WTO) (UNEP/CHW/OEWG/2/INF/13) and a background note by the Secretariat on the Basel Convention and recent efforts to develop a strategic approach to international chemicals management (UNEP/CHW/OEWG/2/INF/14).

81. Prior to introducing the item, the Executive Secretary thanked the Government of France for having undertaken the task of revising the translation into French of Annexes VIII and IX.

##### **A. Cooperation with the World Trade Organization**

82. In discussion of the item, the representatives expressed considerable interest in the Secretariat's efforts to enhance cooperation with WTO and to report on progress in seeking observer status at meetings of the WTO Committee on Trade and the Environment in Special Session, and encouraged the Secretariat to continue its efforts in that direction. In the context of a discussion of how the Secretariat could raise the profile of the Convention at WTO, it was suggested that the Secretariat could organize and participate in regional workshops. While there was agreement that such workshops represented good opportunities to showcase the Convention, one representative struck a note of caution, observing that there were a great many organizations in existence, many of them as important to the work of the Convention as WTO, and that it was impossible for the Secretariat to undertake awareness-raising projects with respect to each individual organization. Instead, it was suggested, it was up to each member of the Working Group to publicize the work of the Convention on an informal basis at every opportunity.

##### **B. Strategic approach to international chemicals management**

83. A number of representatives expressed interest in the subject of a strategic approach to international chemicals management, and one suggested ways whereby the process might be improved from the Convention's perspective, such as by more explicitly addressing the potential for synergies between the Stockholm Convention on POPs and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The Secretariat was asked to report to the Working Group at its third session on the outcome of the forthcoming preparatory meeting of the committee to develop a strategic approach to international chemicals management, to be held in Bangkok from 9 to 13 November 2003, at which the Secretariat

would conduct a round-table event for non-governmental organizations on the subject of waste minimization and the strategic approach to international chemicals management.

### **C. Financial matters**

84. At the Working Group's sixth plenary meeting, on the morning of Thursday, 23 October, the Secretariat introduced two information documents on financial matters (UNEP/CHW/OEWG/2/INF/8 and Add.1) and, at the same time, drew attention to two corrigenda, the first to the report of the sixth meeting of the Conference of the Parties (UNEP/CHW.6/40/Corr.2), and the second to the report of the first session of the Working Group (UNEP/CHW/OEWG/1/16/Corr.1), relating to the budgets of the Basel Convention trust funds, both of which were available on the Convention web site.

### **D. Committee for Administering the Mechanism for Promoting Implementation and Compliance**

85. At the Working Group's seventh plenary meeting, on the morning of Friday, 24 October, the Chair of the Committee for Administering the Mechanism for Promoting Implementation and Compliance (Compliance Committee) made a statement regarding the Committee's first meeting, the text of which may be found in annex V to the present report.

### **E. Provision of official versions of Conference of the Parties decision III/1 on the Convention web site**

86. At the Working Group's seventh plenary meeting, the Executive Secretary announced that it had been brought to the attention of the Secretariat that the English, French and Spanish language versions on the web site of decision III/1 of the Conference of the Parties, by which the Conference of the Parties had promulgated the Ban Amendment, were not the official United Nations versions of the decision. Accordingly, the official version of the decision in each of the three languages would be forwarded to the Secretariat by the Treaty Section of the United Nations Office of Legal Affairs and would thereafter be posted on the web site.

### **F. Guidance elements on illegal traffic in hazardous waste**

87. At the Working Group's seventh plenary meeting, the Executive Secretary drew attention to the task of reviewing and updating the guidance elements on illegal traffic in hazardous wastes, which the Conference of the Parties at its sixth meeting had included in the Working Group's work programme. In that context, she reported that the Secretariat had to date received few comments from Parties on the subject and asked that they provide them by 31 January 2004.

### **G. UNITAR programme on chemical and waste management**

88. A representative of the United Nations Institute for Training and Research (UNITAR) addressed the Working Group at its seventh plenary meeting. Briefly describing a new programme being undertaken by UNITAR in conjunction with the Secretariat and the secretariat of the Organization for the Prohibition of Chemical Weapons, under which three pilot projects on chemical and waste management had been begun in developing countries, he invited applications for additional projects under the programme, the deadline for which was 31 December 2003.

### **H. Date and venue of the third session of the Open-ended Working Group**

89. The Working Group decided that its next session would be held in Geneva from 26 to 30 April 2004.

### **I. Technical guidelines on the recycling and reclamation of metals**

90. At the Working Group's eighth meeting, on the afternoon of 24 October, the representative of Australia reminded the Working Group that in accordance with decision VI/37 of the Conference of the Parties, Australia had prepared draft technical guidelines on the environmentally sound recycling and

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reclamation of metals and metal compounds (R4), which had been revised in the light of numerous comments received following the 20th session of the Technical Working Group and presented to the Working Group at its first session (UNEP/CHW/OEWG/1/INF/10). Noting that no comments had been received on the current draft as contemplated in decision OEWG-I/8, he asked that Parties and others provide any comments they might have to Australia and the Secretariat by 31 December 2003 so that the guidelines could be presented to the group at its third session for adoption on an interim basis.

## **J. Declaration by African country Parties on implementation of the Convention**

91. The representative of South Africa, speaking on behalf of the African country Parties to the Convention, read a declaration to the Working Group on various issues of concern to African Parties. The declaration is attached as annex VI to the present report.

## **XV. Adoption of the decisions and the report (item 15)**

92. The adoption of decisions is shown in the present report under the appropriate agenda items and the texts of those decisions and their appendices is given in annex I hereto.

93. The report of the Open-ended Working Group on the work of its second session was adopted at the final plenary meeting, on the afternoon of Friday, 24 October 2003, on the basis of the draft report that had been circulated in documents UNEP/CHW/OEWG/2/L.1 and Add.1 and Add.2, as amended during the meeting, and on the understanding that the finalization of the report would be entrusted to the secretariat in consultation with the Co-Chairs and the Rapporteur.

## **XVI. Closure of the session (item 16)**

94. Following the customary exchange of courtesies, the second session of the Open-ended Working Group of the Basel Convention for the Control of Transboundary Movement of Hazardous Wastes and their Disposal was declared closed at 5 p.m. on 24 October 2003.

## **Annex I**

### **Decisions adopted by the Open-Ended Working Group of the Basel Convention at its second session**

#### **OEWG-II/1 Strategic Plan for the Implementation of the Basel Convention**

*The Open-ended Working Group,*

*Recalling* decisions VI/1 of the Conference of the Parties to the Basel Convention on the Strategic Plan for the Implementation of the Basel Convention (to 2010) and VI/2 concerning project proposals under the Strategic Plan,

*Recalling also* decision OEWG-I/1 adopted by the Open-ended Working Group at its first session concerning project proposals under the Strategic Plan,

*Noting* with appreciation the project proposals submitted by Parties and by Basel Convention regional centres to the Open-ended Working Group at its second session,

*Recognizing* the limited financial resources available to implement project activities for 2003-2004 under the Strategic Plan,

*Having considered* the project proposals submitted by Parties and Basel Convention regional centres,

1. *Selects* the project proposals contained in the appendix to the present decision for funding under the Strategic Plan for 2003-2004 in accordance with the criteria adopted by the Conference of the Parties at its sixth meeting (decision VI/2, appendix) and referred to by the Open-ended Working Group (decision OEWG-I/1);

2. *Approves* the level of funding from the resources of the Basel Convention Trust Fund for the period 2003-2004 for each of the project proposals as indicated in the annex to the present decision;

3. *Requests* the Secretariat to finalize the arrangements for funding the selected project proposals through consultations with the originators of the selected proposals in order to satisfy, as necessary, United Nations Environment Programme formal and substantive requirements associated with the management of the Basel Convention Trust Fund;

4. *Requests* the Parties and the Basel Convention regional centres whose proposals have been selected to ensure their effective implementation and to report, using the United Nations Environment Programme progress and final report formats, through the Secretariat, on their progress and outcome in time for review by the Conference of the Parties at its seventh meeting;

5. *Agrees* to review, at the third session of the Open-ended Working Group, progress in the implementation of the activities selected and funded under the Strategic Plan.

**Annex****Allocation of funds to project proposals under the Strategic Plan**

<b>Region</b>	<b>BCRC or Party</b>	<b>Title of project</b>	<b>Total amount required in 2003-2004</b>
Asia	Bangladesh	Training on environmentally sound management of biomedical wastes in Dhaka city, Bangladesh	42,308
	China	Survey of the import and the environmentally sound management of electronic wastes in the Asia-Pacific region	87,302
	Indonesia	Pilot project on inventory of hazardous waste generation in selected member countries	68,111
CEE	Russian Federation	Preparation of a review on the existing national and international legislation on monitoring and control of transboundary movements of hazardous wastes and their environmentally sound management for CIS countries	36,860
	Slovakia	Workshop on the strengthening of cooperation between the chemical and hazardous wastes conventions	25,858
	Slovakia	Regional workshop for the preparation of a regional approach for the environmentally sound management of POPs as wastes in selected Central and Eastern European countries	59,561
<b>Total</b>			<b>320,000</b>

**OEWG-II/2****Basel Protocol on Liability and Compensation**

*The Open-ended Working Group,*

*Recalling* decision VI/15 of the Conference of the Parties on the Basel Protocol on Liability and Compensation,

1. *Invites* those countries in a position to do so to provide financial resources and/or in-kind contributions for the organization of five regional workshops for addressing various aspects and obstacles to the process of ratification of or accession to the Basel Protocol;

2. *Requests* the Secretariat to prepare a revised draft of the instruction manual for the implementation of the Basel Protocol, taking into account all suggestions made by representatives during the second session of the Open-ended Working Group, written submissions to be received by 31 December 2003, as well as recommendations by participants of the regional workshops, for consideration by the Open-ended Working Group at its third session;

3. *Further requests* the Secretariat to prepare a draft decision on the issue of the Basel Protocol to be considered by the Open-ended Working Group at its third session with a view to presenting it to the Conference of the Parties to the Basel Convention at its seventh meeting.

**OEWG-II/3****Guidance elements for bilateral, multilateral or regional agreements or arrangements for the implementation of the Basel Protocol on Liability and Compensation**

*The Open-ended Working Group,*

*Noting* the work done thus far on draft guidance elements for bilateral, multilateral and regional agreements since 1995,

*Further noting* that the work on the draft elements is not progressing,

*Considering* the decision of the Parties at the sixth meeting of the Conference of the Parties to focus Convention priorities on the Strategic Plan for the Implementation of the Basel Convention and the consequent practical application of environmentally sound management,

1. *Agrees* to recommend to the Conference of the Parties at its seventh meeting that it cease any further work on elements of guidance for bilateral, multilateral and regional agreements;
2. *Requests* the Secretariat to contact all Parties to the Convention and to ask them to identify any specific problems that they have related to article 11 arrangements and agreements, bearing in mind the questions in the annex to decision II/10 of the Conference of the Parties, attached in the annex to the present decision;
3. *Also requests* the Secretariat to assist Parties if requested, and within the means available to it, in addressing any specific problems identified;
4. *Further requests* the Secretariat to report on any outstanding issues or problems to the Parties for further consideration.

**Annex****Questions to be considered by Parties to bilateral, multilateral or regional agreements or arrangements when reporting on their conformity with the provisions of article 11 of the Convention (as contained in the annex to decision II/10 of the Conference of the Parties)**

In preparation of its report to the Conference of the Parties, the following questions could be used as a guide by a Party when it is reviewing one of its agreements which falls under article 11. The questions would help the Party focus on particular issues, however it is important to note that the agreement must be viewed in its entirety and not strictly provision by provision. It is also recognized that the purpose of the said agreement and the geographic, legal and economic circumstances of the other Contracting Party(ies) constitute elements of this review. A Party's report would have to indicate that the different requirements found in paragraph 1 or 2 of article 11, as appropriate, are met in conformity with the Basel Convention.

1. Does the agreement address the control of the transboundary movement of hazardous wastes and other wastes subject to the Basel Convention?
2. Taking all practicable steps, will the management of hazardous wastes under the agreement or arrangement be such that it will protect human health and the environment against adverse effects?
3. How does the agreement or arrangement take into account the interests of developing countries?
4. Does the agreement or arrangement require prior notification?
5. Does the agreement or arrangement require prior consent?
6. Does the agreement or arrangement provide for the tracking of the wastes?
7. Does the agreement or arrangement provide for alternative measures for wastes which cannot be managed as planned?

8. Does the agreement or arrangement provide for the identification of authorities responsible for the implementation of such an agreement?
9. Are the obligations of the article 11 agreement or arrangement consistent with the control measures related to transboundary movements of hazardous wastes as provided for by the Basel Convention?
10. Are the wastes covered by the article 11 agreement or arrangement consistent with the scope of the Basel Convention?

## **OEWG-II/4**

### **Legal aspects of the full and partial dismantling of ships**

*The Open-ended Working Group,*

#### **I. Work to be done with the Basel Convention**

*Recalling* decision V/28 of the Conference of the Parties, on the dismantling of ships,

*Also recalling* decision VI/24, which requests the Open-ended Working Group to present its recommendations on the legal aspects of the full and partial dismantling of ships to the Conference of the Parties at its seventh meeting,

*Noting* that a ship may become waste, in accordance with article 2 of the Basel Convention, and that at the same time it may be defined as a ship under other international rules,

*Considering* the set of questions approved by the Legal Working Group at its fourth session and by the Technical Working Group and Legal Working Group at their first joint meeting in January 2002,

1. *Invites* Parties and others to submit to the Secretariat, by 31 December 2003, any comments or information relating to the following questions and issues:
  - (a) When does a ship become waste? When does a ship cease to be a ship?
  - (b) What criteria or indicators should be used for determining the point at which a ship becomes waste and, in particular, the intention to dispose of the ship?
  - (c) Which State or States (e.g., State of export, State of import, State of transit, flag State, owner State, port State) have the responsibility or obligation to ensure compliance with the appropriate conventions or provisions under the following scenarios:
    - (i) If the ship is Government-owned;
    - (ii) If a ship becomes waste in an area under the jurisdiction of a Party and then proceeds to the ship-breaking State;
    - (iii) If a ship becomes waste on the high seas and proceeds to the ship-breaking State;
    - (iv) If a ship becomes waste on the high seas and sails to a transit Party State and finally proceeds to the ship-breaking State;
    - (v) If the ship becomes waste in an area under the jurisdiction of the ship -breaking State;
    - (vi) If a ship becomes or is found abandoned or scuttled on land or at sea:
  - (d) Potential or identified overlaps, gaps, or conflicts between international treaties, including the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention), the United Nations Convention on the Law of the Sea, the Basel Convention and the

International Maritime Organization treaties, as well as the identification of situations in which the domestic laws implementing the Basel Convention are difficult to enforce in accordance with the various obligations under the Convention, including environmentally sound management;

(e) What rules, if any, apply to waste, both cargo and operationally generated, on a ship destined for breaking?

(f) What range of possible solutions might address the issues identified in subparagraphs (a)–(e) and how could they be addressed and to what extent should this be done by the Secretariat of the Basel Convention or the International Maritime Organization or in cooperation between the International Maritime Organization, the International Labour Organization and the Secretariat of the Basel Convention?

2. *Agrees* to establish a small inter-sessional working group, open to Parties and others, with the task of preparing, with the assistance of the Secretariat, a report analysing and synthesizing the submissions, as well as indicating possible solutions, with regard to the questions and issues referred to in paragraph 1 above for the consideration of the Open-ended Working Group at its third meeting, and requests the Secretariat, if necessary, to seek advice from the secretariats of the International Maritime Organization, the London Convention 1972 and the United Nations Convention on the Law of the Sea;

3. *Also invites* Parties and others to nominate representatives to participate in the work of the small inter-sessional working group by 31 December 2003;

4. *Requests* the secretariat to facilitate the work of the small inter-sessional working group and to submit the report of the group to the Open-ended Working Group at its third session;

5. *Also requests* the secretariat to post the report of the small inter-sessional working group on the Basel Convention web site.

## II. Cooperation with other organizations

*Recalling* decision VI/29, on international cooperation, paragraph 6 of which requests the Secretariat to undertake work on the dismantling of ships in cooperation with the International Labour Organization and the International Maritime Organization,

*Welcoming* the outcome of the International Maritime Organization Marine Environment Protection Committee at its forty-ninth session in July 2003, in particular regarding the finalization of the International Maritime Organization guidelines on ship recycling and its support for the establishment of a joint working group of the International Maritime Organization, the International Labour Organization and the Basel Convention,

*Noting* the request of the Marine Environment Protection Committee to the secretariat of the International Maritime Organization to liaise with the International Labour Organization and the Secretariat of the Basel Convention in order to prepare draft terms of reference for the joint working group for consideration by the Marine Environment Protection Committee at its fifty-first session,

1. *Agrees* that any terms of reference of the joint working group adopted by the Marine Environment Protection Committee should be considered by the Open-ended Working Group at its third session and, in particular, that the following points should be taken into account as part of the terms of reference:

(a) To review the work programme of the International Labour Organization, the International Maritime Organization and the Conference of Parties to the Basel Convention on the issue of ship dismantling and recycling in order to determine whether there is duplication of work and overlapping of responsibilities and competencies between the three organizations,

(b) To facilitate the exchange of views between the three organizations in order to ensure a coordinated approach to the relevant aspects of ship dismantling and recycling,

(c) To undertake a comprehensive examination of, among other things, the following relevant international documents: the technical guidelines for the environmentally sound management of the full and partial dismantling of ships adopted by Conference of Parties to the Basel Convention at its sixth meeting; the International Maritime Organization guidelines on ship recycling; the guidelines on safety and health in ship-breaking developed by the International Labour Organization, with a view to identifying possible gaps, overlaps, loop-holes or ambiguities;

(d) To consider mechanisms to promote the implementation of the guidelines adopted by the International Maritime Organization, the International Labour Organization and the Conference of the Parties of the Basel Convention;

(e) To submit recommendations to the International Maritime Organization Marine Environment Protection Committee, the Governing Body of the International Labour Organization, to the Open-ended Working Group and to the Conference of the Parties to the Basel Convention, as appropriate;

2. *Invites* the International Maritime Organization, in cooperation with the International Labour Organization and the Basel Convention, to organize, as a first step, a workshop with a view to reviewing and exchanging views on, among other things, the points referred to in paragraphs 1 (a)–(e) above;

3. *Requests* the Secretariat of the Basel Convention to report to the Open-ended Working Group at its third session on actions already taken or to be taken to support the secretariat of the International Maritime Organization and promote cooperation between the secretariats of the International Labour Organization, the International Maritime Organization and the Basel Convention;

4. *Further requests* the secretariat to communicate the present decision to the International Maritime Organization, the International Labour Organization, the Office for the London Convention 1972 and the United Nations Division for Ocean Affairs and the Law of the Sea.

## **OEWG-II/5**

### **National definitions of hazardous wastes (article 3 of the Basel Convention)**

*The Open-ended Working Group,*

*Noting* the obligation of each Party under article 3 of the Convention to inform the Secretariat of the Convention, within six months of becoming a Party to the Convention, of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes, and also noting the obligation to report subsequently any significant changes to the information that it has previously provided,

*Recognizing* that information provided in annual reporting under article 13 may not substitute for the information required under article 3,

*Considering* that few Parties have submitted to the Secretariat the information under article 3 within the time limits established under the Convention,

*Noting with appreciation* Germany's willingness to assist the Secretariat in developing a standardized format for reporting under article 3,

1. *Requests* the Secretariat, together with interested Parties, to develop a standardized format for reporting under article 3 of the Convention for consideration by the Open-ended Working Group at its third session and for consideration and possible adoption by the Conference of the Parties at its seventh meeting;

2. *Further requests* the Secretariat to assist Parties in ensuring that information notified is up-to-date and as clear as possible to facilitate each Party's understanding of other Parties' national definitions of hazardous wastes;

3. *Requests* Parties that have not provided the Secretariat with any information required under article 3 of the Convention to provide any such information as soon as possible, but not later than six months after the adoption of a standardized reporting format at the seventh meeting of the Conference of the Parties, and to report any subsequent significant change of this information using the standardized format;

4. *Requests* the Secretariat to make available on its web site the information received from Parties pursuant to article 3 of the Convention in the six United Nations languages.

### **OEWG-II/6** **Analysis of issues related to Annex VII**

*The Open-ended Working Group,*

*Noting* the main findings of phase II of the analysis of issues related to Annex VII,

Considering the first draft of the analysis of issues related to Annex VII prepared by the Secretariat,

1. *Invites* Parties and others to submit to the Secretariat, by 31 January 2004, any further technical or specific comments or information taking into account, as appropriate, the points contained in annex III to the report of the second session of the Open-ended Working Group, that would not reopen discussion or raise new issues;

2. *Requests* the Secretariat to prepare a paper that consolidates the comments made during the second session of the Open-ended Working Group and those to be made subsequently and a paper presenting the current analysis of the issues, as contained in the annex to the note on the item that was prepared by the Secretariat and was before the Working Group at its second session<sup>1</sup>, with a view to finalizing the analysis during the third session of the Open-ended Working Group before presenting phases I and II of the analysis for a final decision by the Conference of the Parties at its seventh session.

### **OEWG-II/7** **Initiation of work on the scope of Annex II**

*The Open-ended Working Group,*

*Noting* that few comments have been received by the Secretariat on the question of the scope of Annex II,

*Noting* also the differences in the approaches suggested for progressing with this work,

1. *Agrees* to include the revision and updating of the technical guidelines on wastes collected from households (Y46) in its work programme for the period 2005–2006;

2. *Invites* Parties and signatories to provide technical and financial support to the Secretariat for the work programme element referred to in paragraph 1 above.

<sup>1</sup> UNEP/CHW/OEWG/2/7.

**OEWG-II/8**  
**Annex IX to the Basel Convention**

*The Open-ended Working Group,*

*Recalling* decision OEWG-I/3,

*Noting* the information submitted by Parties concerning national classification and control procedures for the import of wastes contained in Annex IX,

*Welcoming* the replies provided by Parties concerning national classification and control procedures for the import of wastes contained in Annex IX,

1. *Invites* those Parties and signatories that have not provided information to fill in the relevant questionnaire and return it to the Secretariat if possible by 15 December 2003;
2. *Requests* the Secretariat to prepare a compilation of the replies received, to post the information on the web site of the Basel Convention ([www.basel.int](http://www.basel.int)) and to update it on a continuous basis;
3. *Also requests* the Secretariat to prepare a consolidated report for consideration by the Conference of the Parties at its seventh meeting.

**OEWG-II/9**  
**Partnership with environmental non-governmental organizations and with the industry and business sectors**

*The Open-ended Working Group,*

*Recalling* decision VI/32 of the Conference of the Parties and its own decision OEWG-I/6 on cooperation with environmental non-governmental organizations and with the industry and business sectors,

1. *Adopts* provisionally the text annexed to this decision as the “Interim Partnership Work Programme”;
2. *Requests* the Secretariat to initiate and implement the Interim Partnership Work Programme;
3. *Requests* Parties, signatories and other stakeholders to provide written comments on the Interim Partnership Work Programme to the Secretariat by 31 December 2003;
4. *Requests* the Secretariat to prepare for consideration and adoption at the third session of the Open-ended Working Group a partnership work programme based on the Interim Partnership Work Programme and comments received;
5. *Encourages* Parties and signatories to follow the lead of Australia and Switzerland in providing additional financial support to the Basel Convention Partnership Programme;
6. *Encourages* civil society, including environmental non-governmental organizations, industry and business, to give financial support to the Basel Convention Partnership Programme and to get involved in specific activities at the regional, national and international levels.

## **Annex**

### **Interim Partnership Work Programme**

#### **A. Background**

1. At its sixth meeting, in Geneva in December 2002, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal decided to develop a work programme for cooperation with the industry and business sectors and environmental non-governmental organizations with the aim of developing strategic partnerships in domains of relevance to the implementation of the Convention, its amendments and protocols (decision VI/32).
2. The present document outlines a work programme that responds to that decision. In particular, it:
  - (a) Takes into account activities for 2003-2004 under the Strategic Plan for the Implementation of the Basel Convention;
  - (b) Takes into account the Basel Convention regional centres as potential delivery mechanisms for the promotion and nurturing of public-private partnerships that take into consideration regional or sub-regional specificities;
  - (c) Supports the aims of the Basel Declaration on Environmentally Sound Management;
  - (d) Recognizes and complements existing initiatives and projects.

#### **B. Introduction**

3. The world-wide environmentally sound management of hazardous and other wastes as called for in the Basel Declaration on Environmentally Sound Management requires action at all levels of society. Training, information, communication, methodological tools, capacity-building with financial support, transfer of know-how, knowledge and sound and proven cleaner technologies and processes are driving factors to assist in the concrete implementation of the Basel Declaration.
4. The effective involvement and coordination by all concerned stakeholders is seen as essential for achieving the aims of the Basel Declaration.
5. The challenge is to find and develop practical, sustainable solutions to de-link economic development and the waste it traditionally generates. Alternative development models do exist. Industry and Governments have begun to embrace cleaner production technologies and extend producer liability, which provide built-in incentives for greener, less wasteful production and products.
6. Growth in partnerships is hindered by a broad perception that the Basel Convention deals only with hazardous wastes and/or only with the transboundary movement of such wastes. This is particularly acute when efforts are made to engage industry with respect to the end-of-life implications of products that during their life are neither hazardous nor wastes. Conversely, considerable potential exists for a broader interpretation of the role of the Basel Convention as an instrument contributing to effective life cycle management of materials and products - e.g., in areas of waste minimization, design for environment, cleaner production and changing consumption patterns, as well as management of wastes, including municipal wastes.

#### **C. General principles**

##### **1. Rights and responsibilities**

7. Partnerships cannot create or abrogate rights or responsibilities of Parties under the Basel Convention.
8. The Basel Convention Partnership Programme is under the authority of the Conference of the Parties to the Basel Convention.

## 2. United Nations guidelines for cooperation with the business community

9. Irrespective of any situation-specific nature, United Nations guidelines<sup>1</sup> stipulate that cooperative arrangements should be guided by the following general principles:

- (a) Advance United Nations goals: The objectives need to be articulated clearly and must advance United Nations goals as laid out in the Charter of the United Nations;
- (b) Clear delineation of responsibilities and roles: The arrangements must be based on a clear understanding of respective roles and expectations, with accountability and a clear division of responsibilities;
- (c) Maintain integrity and independence: Arrangements should not diminish the United Nations's integrity, independence and impartiality;
- (d) No unfair advantage: Every member of the business community should have the opportunity to propose cooperative arrangements, within the parameters of these guidelines. Cooperation should not imply endorsement or preference of a particular business entity or its products or services;
- (e) Transparency: Cooperation with the business sector must be transparent. Information on the nature and scope of cooperative arrangements should be available within the organization and to the public at large.

### D. Programme objectives

10. Given the size and nature of the waste challenge, and the call on both expertise and resources (internal and external), the Basel Convention Partnership Programme is focused on the following objectives:

- (a) To initiate and oversee practical project activity in priority areas, with particular regard to the generation, movement and environmentally sound management of waste and active promotion of the transfer and use of cleaner technologies;
- (b) To broaden the resource and support base of the Convention, particularly through:
  - (i) Improved local and regional participation;
  - (ii) Improved analysis, understanding and political support for the broadest programme perspective of the role of the Basel Convention in the waste challenge;
  - (iii) Enhanced access to external expertise and resources (for example, from industry, environmental non-governmental organizations, philanthropic organizations and other United Nations agencies and regional and national authorities);
- (c) To improve stakeholder participation and communication.

### E. Priority areas

11. The Strategic Plan for the Implementation of the Basel Convention to 2010, adopted at the sixth meeting of the Conference of the Parties (December 2002), identifies priority waste streams as including electronic wastes, used lead-acid batteries, used oils, obsolete stocks of pesticides, PCBs, dioxins/furans, by-products from the dismantling of ships, biomedical wastes and healthcare wastes. At the first session of the Open-ended Working Group (April-May 2003), it was agreed to fund new partnerships with municipalities for the environmentally sound management of hazardous waste in urban areas (decision OEWG-1/1). These priorities are included in the Basel Convention Partnership Programme.

12. Existing and planned programme activity encompassed within these programme objectives is represented in table 1.

<sup>1</sup> *Building Partnerships: Cooperation between the United Nations and the Business Community* (United Nations publication, sales no. E.02.I.12).

## **F. Stakeholders**

13. The Basel Convention Partnership Programme recognizes old friends but acknowledges that sustained interest in the waste challenge and the broadening programme perspective needed of the Convention will require additional partners.

14. There is also a need to look beyond the traditional environmental non-governmental organizations if the Basel Convention is to succeed in developing strategic alliances with organizations with potentially related agendas (e.g., non-governmental organizations involved in poverty reduction, economic or social development, health promotion or occupational, health and safety issues) and foundations involved in broader philanthropic work.

15. Basel Convention regional centres have a key role to play both in promoting the Convention amongst potential partners and in providing capacity-building, training and other services at the regional level.

16. Stakeholders will vary according to the particular project or initiative. The criteria for selection of partners will include:

- (a) Demonstrated commitment to the principles, practice and promulgation of environmental ly sound management;
- (b) Demonstrated commitment to engage in meaningful dialogue and cooperation with other partners, the Parties and signatories to the Basel Convention, Basel Convention regional centres, and the Secretariat of the Basel Convention;
- (c) Demonstrated expertise or standing in the subject of the particular project or initiative;
- (d) Demonstrated networking capacity.

17. The involvement of partners will at all times be voluntary.

## **G. Management**

18. The senior programme officer (partnerships) will manage the Basel Convention Partnership Programme.

Table 1

## Basel Convention Partnership Programme

	<b>Objective</b>	<b>Programme elements</b>	<b>Key activities</b>	<b>Performance indicators</b>
1	Initiate and oversee practical project activity in priority areas, with particular regard to the generation, movement and environmentally sound management of waste and active promotion of the transfer and use of cleaner technologies	Cooperative project development and implementation  Awareness raising  Stakeholder participation	<p><b>Phase I</b> Mobile Phone Partnership Initiative Used Oils Partnership for Africa Electrical and electronic waste Obsolete stocks of pesticides in Africa</p> <p><b>Phase II</b> Biological and medical waste Used lead-acid batteries Partnerships with municipalities for the environmentally sound management of hazardous wastes in urban areas Dismantling of ships</p> <p><b>Phase III</b> PCBs Dioxins/furans</p> <p><b>Ongoing</b> Promotion of ratification and implementation of the Basel Convention, its protocols, amendments and decisions</p>	<p>Effective partnerships established with relevant stakeholders to support environmentally sound management activities for priority waste streams identified in the strategic plan</p> <p>Ratifications and implementation of the Basel Convention, its protocols, amendments and decisions</p>
2	Broaden the resource and support base of the Convention	Awareness raising  Fundraising  Stakeholder participation	<p>Development of a project:</p> <ol style="list-style-type: none"> <li>To encourage the development and use of data on waste trends at the national level;</li> <li>To identify, collate and disseminate data on global waste trends.</li> </ol> <p>(Tentatively called “WasteWatch”, the project would assist the mobilization of political support and benchmark progress in the waste challenge.)</p> <p>Development of a fund-raising programme</p> <p>Development of a recognition programme for donors</p>	<p>Improved local and regional participation</p> <p>Improved analysis, understanding and political support</p> <p>Enhanced access to external expertise and resources (for example, from industry, environmental non-governmental organizations, philanthropic organizations and other United Nations agencies and regional and national authorities)</p>

	<b>Objective</b>	<b>Programme elements</b>	<b>Key activities</b>	<b>Performance indicators</b>
3	Improve stakeholder participation and communication	Stakeholder participation  Communications and public affairs activities	Establishment of a Basel Convention partners forum  (Aimed at formalizing regular discussion between non-governmental organization partners of the Convention)	Improved support from key industry and non-governmental organization leaders for the aims of the Basel Convention  Improved support for Basel Convention regional centres  Improved Convention newsletter

**OEWG-II/10****Preparation of technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants**

*The Open-ended Working Group,*

*Recalling* decision VI/23 of the Conference of the Parties and decision OEWG-I/4 of the Open-ended Working Group,

*Noting* with appreciation that Canada is serving as lead country for the drafting of general technical guidelines on the environmentally sound management of persistent organic pollutants as wastes,

*Also noting* with appreciation that Australia has indicated its willingness to serve as lead country for the drafting of technical guidelines on dioxins and furans and that Mexico has indicated its willingness to serve as lead country for the drafting of technical guidelines on DDT,

*Further* noting with appreciation the contributions made by the participants of the small inter-sessional working group established to assist in the preparation of the general technical guidelines,

1. *Invites* Parties and others to submit comments to the Secretariat and to Canada, preferably by 30 November 2003, with respect to the general technical guidelines and the technical guidelines on PCBs, PCTs and PBBs on the following, taking into account, among other things, the report of the contact group which is contained in annex IV to the report of the Open-ended Working Group on the work of its second session<sup>1</sup>;

- (a) Further proposals on provisional definitions for low POP content for each POP together with a rationale;
- (b) Methods that constitute environmentally sound disposal, including pre-treatment, with the following addressed separately:
  - (i) Destruction or irreversible transformation methods;
  - (ii) Other disposal methods when the POP content is low;
  - (iii) Other disposal methods when destruction or irreversible transformation does not represent the environmentally preferable option;
- (c) Levels of destruction and irreversible transformation;
- (d) Other issues as contained in the annex to decision OEWG-I/4 and in the information documents on the draft technical guidelines, prepared by Canada, for the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants and of PCB, PCT and PBB<sup>2</sup>;

2. *Agrees* that:

- (a) The general technical guidelines and the specific technical guidelines should have a similar structure as far as possible, taking into account comments made at and after the second session of the Open-ended Working Group;
- (b) Important issues in these technical guidelines with respect to which further discussion is needed should be addressed in a separate part of the document distinct from the text of the guidelines;
- (c) The issue of a methodology for further definition of low POP content should be addressed in a separate part of the document distinct from the text of the guidelines and should be included in the work programme for 2005 and 2006;
- (d) The guidelines should make clear that mixing of wastes with a POP content above a defined low POP content with another waste or wastes solely for the purpose of generating a mixture with a POP content below the defined low POP content is not environmentally sound; cases may exist, however, in which mixing of wastes before destruction may be environmentally preferable;
- (e) With regard to methods for destruction or irreversible transformation, only technologies which are currently commercially available and are environmentally sound should be recommended in

<sup>1</sup> UNEP/CHW/OEWG/2/12.

<sup>2</sup> UNEP/CHW/OEWG/2/INF/6 and 12.

the technical guidelines; technologies that are currently operating on a pilot or test basis should also be mentioned but in a separate section; and for each technology, appropriate subheadings would be useful;

(f) With regard to other disposal methods when POP content is low, a considerable revision of the current text is necessary and technologies mentioned in paragraph 2 (e) above may be relevant;

3. *Requests* Canada, in consultation with the small inter-sessional working group, to prepare revised draft general technical guidelines and revised draft technical guidelines with regard to PCBs, PCTs and PBBs for consideration by the Open-ended Working Group at its third session;

4. *Requests* Australia, in consultation with the small inter-sessional working group, to prepare a first draft of the technical guidelines with regard to dioxins and furans for consideration by the Open-ended Working Group at its third session;

5. *Requests* Mexico, in consultation with the small inter-sessional working group, to prepare a first draft of the technical guidelines with regard to DDT for consideration by the Open-ended Working Group at its third session;

6. *Invites* Parties to serve as lead countries for the two technical guidelines with regard to HCB and for the eight pesticides aldrin, chlordane, dieldrin, endrin, HCB, heptachlor, mirex and toxaphene, and to inform the secretariat accordingly as soon as possible;

7. *Invites* Parties and others to nominate further participants for the small inter-sessional working group.

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## Annex II

### **Report by the chair of the contact group on the draft instruction manual for implementation of the Basel Protocol on Liability and Compensation**

1. The contact group was set up by the plenary to begin discussions on the first draft of an instruction manual on implementation of the Basel Protocol and to provide preliminary feedback in advance of written submissions that would be accepted until 31 December 2003.
2. The contact group met once during the second session of the Open-ended Working Group and provided general comments on the manual as well as comments about its structure and any particular areas of concern.
3. To avoid confusion about the way different countries incorporated international law into their domestic legislation, it was agreed that it would be simplest for the manual to present what must be implemented into domestic law, regardless of how that occurred for each country.
4. It was agreed that the purpose of the manual should be to provide a practical focus on implementation, rather than to paraphrase or interpret the Protocol. The document should be neutral as it was recognized that its very existence and usefulness would make it inherently self-promotional.
5. It was suggested that the structure of the document could include an introduction, article-by-article implementation analysis, checklists and annexes. For the introduction, it was suggested that it should explain the manual's purpose as a practical guide to implementation. It should indicate that it was not meant to provide a definitive legal interpretation of the Protocol.
6. For the article-by-article implementation analysis, it was considered that it would be most useful to divide the treatment of each article into, first, reproduction of the text of the article; second, an implementation portion with a practical focus; and, third, a summary statement at the end of each section indicating whether the article required domestic implementation or not. Paraphrasing the text provided was not favoured. In this discussion, it became clear that many countries wanted further information on the availability of insurance for activities under the Protocol, as well as information on other types of financial guarantees. In addition, a number of questions were raised on financial limits.
7. The checklists provided at the back of the document on decision points and articles requiring implementation were considered to add value to the document and should be retained, taking into account the comments made in the contact group about general drafting issues.
8. It was also considered that, in future, annexes could be included to provide copies of domestic law implementing the Protocol as well as case studies where the Protocol had been applied. It was acknowledged that domestic implementation might be complex and difficult to adapt from one country to another, but the working group requested the Secretariat to monitor the situation in a search for promising legislation. It was noted that the addition of future annexes should not be taken as meaning that the manual would be a major work in progress, but rather that it could be updated occasionally when useful information was available for incorporation in annexes.
9. It was also suggested that useful precedents for liability implementation manuals might already exist in IMO for the oil-pollution liability regime and that those should be examined for ideas.
10. As regards the draft decision, the working group agreed that an addition should be made to paragraph 2 to reflect the discussion in the plenary and the working group that countries would like to make written submissions. It was also agreed that input from regional workshops would be taken into account before the manual was finalized.

## Annex III

### Report by the chair of the contact group on annex VII

*Note:* The following report is not a consensus document, but merely a reflection of the views put forward by Parties and others.

#### A. Task

1. The contact group undertook the task of identifying issues that it considered could be further expanded or revised in regard to the finalization of the work on Annex VII and that could help Parties and others to provide comments on the first draft of the analysis prepared by the Secretariat.

#### B. Process

2. An exchange of views took place during the two sessions of the contact group on what issues to highlight or missing elements that could be identified.

#### C. Main issues considered

3. The main issues considered in relation to the first draft prepared by the Secretariat (document UNEP/CHW/OEWG/2/7) are set out below.

##### 1. Examination of the environmental, economical and other implications of annex VII – paragraph 12

4. In order to provide an accurate picture of the situation, it should be noted that many Parties do not encounter major difficulties with regard to the concept of environmentally sound management.

##### 2. Evaluation of the institutional and legal framework for the implementation of decision III/1 - paragraph 16

5. It was felt that further clarification and revision of paragraph 16 would be useful, in the light of the fact that, in non-annex VII countries, the lack of domestic legislation on the control of transboundary movement of hazardous wastes or regulation on environmentally sound management requirements should not be seen as a legal obstacle to ratifying the Ban Amendment as decision III/1 contains an export ban. This export ban places requirements on annex VII countries to ensure that hazardous wastes are not exported to non-annex VII countries. Ratification of the Ban Amendment by non-annex VII countries would necessitate the usual formal procedure for any ratification process.

##### 3. Evaluation of the implications of annex VII with regard to the obligation of countries to reduce the generation and transboundary movement of hazardous wastes; current efforts and results of waste minimization programmes; and waste management infrastructure – paragraph 21

6. In order to strike a balance in the illustrations provided in the text of the first draft, Parties and others could provide specific examples of relevance to annex VII issues. Also, economic analysis could cover issues related to the long-term environmental and health effects of hazardous waste management options or decisions.

##### 4. Evaluation of capacity-building assistance to non-annex VII countries – paragraph 23

7. The benefit of regional cooperation could be highlighted in regard to facilitating ratification of the Ban Amendment. The importance of regional cooperation for capacity-building could be further elaborated. In this context, different approaches could be explored. Some Parties are of the opinion that the Secretariat could develop model legislation to assist countries, upon request, to ratify the Ban Amendment.

8. Some Parties would encourage the Basel Convention regional centres, with the agreement of the countries served by the centres, to examine issues related to annex VII and to provide a forum for sharing

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views and experience, for clarifying or improving understanding of issues, or for raising awareness of the importance of ratifying the Ban Amendment through workshops or seminars. Other Parties were of the view that each centre should decide on its activities as prioritized within the region.

9. One Party reported on the outcome of a workshop organized at a Basel Convention regional centre that revealed some misunderstanding regarding the Ban Amendment and its implications. For instance, in that regard, the following incorrect statements had been made: the Ban Amendment would apply to all wastes and not only to hazardous wastes; it is both an export and import ban; it prohibits shipments within regions; ratification of the Basel Convention after 1995 includes at the same time ratification of the Ban Amendment. The Party reported that, after the workshop, a number of countries in this region had ratified the Ban Amendment.

10. It was felt that it was important to stress that further measures beyond technical capacity should be considered, such as adequate infrastructure, emergency response capacity, legal and institutional capacity, workers' safety and training.

#### **5. Evaluation of the steps taken to implement decision III/I – paragraph 30**

11. The relationship of annex VII with international trade rules and WTO was raised as an important issue. The contact group felt that it would be useful for the Secretariat to prepare a text containing factual information.

12. The issue of the existing structure of annex VII as a potential obstacle to the ratification of the Ban Amendment was raised by some Parties.

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## Annex IV

### **Report by the chair of the contact group on technical guidelines on persistent organic pollutants**

1. In addition to the draft decision proposed by the contact group, in particular the following points were discussed.
2. The secretariat reported on the POPs Technical Workshop on Emerging Innovative Technologies for the Destruction and Decontamination of Obsolete POPs of the Scientific and Technical Advisory Panel (STAP) of GEF, 1-3 October 2003, Washington, DC.
3. STAP commissioned a review of alternative technologies for disposal of obsolete POPs. The main objective of the workshop was to review the technical paper "Review of emerging, innovative technologies for the destruction and decontamination of POPs and the identification of promising technologies for use in developing countries" prepared by a consultant. This paper took into account work under the Basel Convention, the UNIDO/UNDP/GEF project on non-combustion technologies, the process under way in the Stockholm Convention and the work done by UNEP, UNIDO, FAO and other organizations.
4. The workshop was attended by the World Bank, UNDP, UNIDO, UNEP and the GEF secretariat and several experts from the developed and the developing world. They reviewed the technical paper and identified several categories to classify the technologies, emphasizing promising emerging non-combustion technologies and good practice in technology selection, and provided initial advice on how GEF interventions could contribute to making operational promising innovative technologies for the elimination and/or destruction of POPs. Further information can be found on the following web site: [stagef.unep.org](http://stagef.unep.org) (click on "notice board").
5. Denmark informed the group that it was conducting a detailed review of selected non-incineration and incineration POPs elimination technologies. A final report would be available in the coming months. Denmark would forward the final report to the secretariat, to Canada and the small inter-sessional working group as soon as it was available.
6. It was noted that the second meeting of the expert group on BAT and BEP under the auspices of the Stockholm Convention would take place from 8 to 12 December 2003 in Chile and that the documents for this meeting were available at [www.pops.int](http://www.pops.int).
7. For the discussion, it was felt useful to make a comparison of the contents of the general guidelines and the PCB guidelines, using the elements in the appendix to decision OEWG-I/4 (see attached table 1).
8. It was noted that the text of the general guidelines and the PCB guidelines should be made more consistent with the texts of the Stockholm and the Basel conventions.
9. With regard to provisional definitions for low POP content, the suggestions made by participants in the contact group are included in the attached table 2.
10. Some participants suggested that an assessment should be made after the seventh meeting of the Conference of the Parties on the costs and benefits of different definitions of low POP content in order better to inform further consideration of the issue in the future.
11. It was noted that it would be useful to prepare after the seventh meeting of the Conference of the Parties a list of wastes which typically have a POP content above a defined low POP content.
12. With regard to table 5 of the PCB guidelines, it was felt useful to include a column on destruction efficiencies in table 5 and to differentiate high temperature incineration in the second line into several technologies.

13. With regard to descriptions of disposal technologies, it was felt useful for the next drafts that a description of technologies with regard to all POPs should be included in the general guidelines and that in specific guidelines it should be referred to relevant technologies in the general guidelines.

14. Germany suggested an additional technology with regard to other disposal methods, both when the POP content is low and when destruction does not represent the environmentally preferable option, namely the complete and permanent enclosure of wastes containing or contaminated with POPs sealed from the biosphere in deep underground cavities in salt or potassium mines. Some participants disagreed that this technology should be used when destruction did not represent the environmentally preferable option, whereas other participants gave their support. It was felt that additional information on this technology and further discussion at the third session of the Open-ended Working Group were necessary.

15. With regard to other disposal methods when destruction is not an environmentally preferable option, it was felt that in the guidelines more consideration should be given to the criteria for what is environmentally preferable and that a life cycle assessment would be an important option in this respect.

16. With regard to levels of destruction or irreversible transformation, three approaches were identified:

- (a) Destruction efficiency (DE), with respect to which it was noted that DE varies depending on the POP content;
- (b) Detection limits, with respect to which it was noted that detection limits depend on the analytical method and the physical form of the waste;
- (c) Absolute levels, i.e., analyse the POP content in all output streams and relate this to the total mass input into the facility.

It was suggested by some Parties that any one of these approaches could be combined with the approach of best available technologies, among other matters, in licensing waste disposal facilities.

17. With regard to destruction efficiencies, the value of 99.9999% was suggested by some participants. With regard to absolute levels, Germany suggested the same levels as the defined low POPs content as a starting point for the discussion; other participants disagreed with this suggestion because they felt it might not be consistent with the Stockholm Convention. It was also mentioned that the approach to be selected should have legal clarity and should be enforceable.

18. It was generally felt that the length of the documents should be no more than 50 pages if possible and that the inclusion of paragraph numbers would be useful when commenting on the drafts.

19. It was agreed that the title of the PCB guidelines should read "Technical guidelines for environmentally sound management of wastes consisting of, containing or contaminated with PCBs, PCTs and PBBs".

20. The following tentative timetable was discussed with regard to the general and the PCB guidelines:

- (a) Preparation of a revised table of contents by early November 2003 for comments by the small inter-sessional working group (SIWG), within two weeks;
- (b) Preparation of draft revised guidelines by mid-January 2004 for comment by SIWG;
- (c) Comments by SIWG participants due by the end of January 2004 (two weeks);
- (d) Preparation of draft revised guidelines by mid-February 2004; the English version would be put on [www.basel.int](http://www.basel.int) at that time;
- (e) Translation of the guidelines in other United Nations languages by mid-March;
- (f) Distribution of the meeting documents in English and other United Nations languages by mid-March.

This timetable means that comments by Parties and others can only be taken into account for the draft submitted to the SIWG if they are submitted before 31 December 2003 at the latest and that only comments by Parties and others sent by the end of January 2004 can be taken into account for the draft submitted to the third session of the Open-ended Working Group. It was understood that Canada would inform the SIWG in advance of a detailed timetable.

21. In closing the deliberations of the contact group, the chair indicated that more attention was needed on the subject in order to deliver proper guidelines to the Conference of the Parties at its seventh meeting and to the Conference of the Parties of the Stockholm Convention at its first meeting.

**Table 1: Comparison of contents of the general technical guidelines (UNEP/CHW/OEWG/2/INF/6) and of the technical guidelines with regard to PCBs, PCTs and PBBs (UNEP/CHW/OEWG/2/INF/12)**

Elements (cf. appendix to decision OEWG-I/4)	General guidelines Chapter numbers	Guidelines with regard to PCBs, PCTs and PBBs Chapter numbers
1. Definition of low POP content	3.1, 3.2, 3.3	8.2.1, 8.2.2
2. Methods that constitute environmentally sound disposal:		
2.1 Destruction or irreversible transformation, including pre-treatment	3.6, 4.2.4, 4.2.5	8.4
2.2 Other disposal including pre-treatment:		
2.2.1 When the POP content is low	3.6, partly in 4.2.4 and App. 5	8.3
2.2.2 When destruction or irreversible transformation does not represent the environmentally preferable option	3.5	Not yet addressed
3. Levels of destruction and irreversible transformation	3.4, 4.2.5, App. 6	8.2.4, 8.4
4. Handling, collection, transportation, temporary storage	4.2.6	7.2, 7.3
5. Identification of wastes, inventories	4.2.2, 4.2.7	6.1
6. Remediation of sites	4.2.9	8.2.3, 8.3.3, 8.5
7. Analytical methods	4.2.8	Not yet addressed
8. Public awareness	4.2.10	5.0
9. Environmental levels and hazards	1.3	3
10. Waste prevention and minimization	4.2.3	4
11. Health and safety	4.2.6	3.3, 7.9
12. Emergency response	4.2.6	7.4
13. Regulatory oversight	4.2.1	4.2, 6.2

**Table 2: Suggestions for provisional definitions of low POP content**

POP	Germany mg/kg	Other participants mg/kg	Greenpeace mg/kg
PCB	50	-	10
Dioxins and furans*	0.05	0.01	0.001
DDT	50	-	0.087
Aldrin	50	-	0.066
Chlordane	50	-	0.26
Dieldrin	50	-	0.13
Endrin	50	-	0.13
HCB	50	-	10
Heptachlor	50	-	0.066
Mirex	50	-	0.13
Toxaphene	50	-	2.6

\* in mg TEQ/kg

## Annex V

### **Statement by the Chair of the Committee for Administering the Mechanism for Promoting Implementation and Compliance**

Co-Chairs of the Open-ended Working Group, distinguished delegates, thank you for giving me the opportunity to address this meeting.

It gives me great pleasure to be able to advise the Open-ended Working Group of the Basel Convention, on behalf of the Committee for Administering the Mechanism for Promoting Implementation and Compliance, that the Committee has held its first meeting. This took place on 19 October 2003, immediately preceding the second meeting of the Open-ended Working Group.

Our business was straightforward and, as you would expect, conducted entirely in accordance with the parameters of the Committee's terms of reference, having reached its decisions by consensus.

#### **Officers of the Bureau**

The Officers of the Bureau of the Committee, including myself as Chair, are:

Mr. Roy Watkinson (United Kingdom of Great Britain and Northern Ireland)  
 Mr. Pavel Suian (Romania)  
 Mr. Miguel Hildmann (Argentina)  
 Mr. Ibrahima Sow (Senegal)  
 Mr. Akiho Shibata (Japan)

Of these, Mr. Pavel Suian, Mr. Miguel Hildmann and Mr. Ibrahima Sow have been elected Vice-Chairs and Mr. Akiho Shibata is the Rapporteur.

Bearing in mind the important terms of reference of the Committee, that the objective of the mechanism is to assist Parties to comply with obligations under the Convention and to facilitate, promote, monitor and aim to secure the implementation of and compliance with the obligations under the Convention; and that the mechanism shall be non-confrontational, transparent, cost-effective and preventative in nature, as well as being simple, flexible, non-binding and oriented in the direction of helping Parties to implement the provisions of the Basel Convention, paying particular attention to the needs of the developing countries and countries with economies in transition, the Committee has already considered matters in relation to the conduct of its business.

#### **Conduct of the Committee's business**

Aware that it needs to be ready to receive submissions in accordance with the procedures for specific submissions under paragraph 9 of the terms of reference, the Committee decided as follows:

In its deliberations the Committee agreed, in the interest of good administration and management, to apply the following criteria:

- There should be an indicative timescale for the submission;
- Subject to priority, nature and urgency the Committee may consider cases in a different order from the date of their receipt;
- The Committee will use its best endeavours to deal with all submissions as expeditiously as possible;
- Parties are encouraged to acknowledge confirmation of receipt of submissions or copies of them sent by the Secretariat, in addition to the usual means of communication by the appropriate diplomatic channels, to ensure that all relevant Parties are aware of the submission.

The Committee has decided provisionally to meet in conjunction with third meeting of the Open-ended Working Group at the end of April 2004.

### **Indicative timescale for submission**

Applying the timescales that I have indicated to you above, the Committee would be ready to consider any submissions made in accordance with paragraph 9 (a) of the terms of reference that are submitted in early March 2004 and those made in accordance with paragraph 9 (b) – Party to Party – of the terms of reference by the end of December 2003.

Relevant information on all this will be published on the web site of the Convention.

### **Other matters**

The Committee is conscious of other matters within its terms of reference, such as the general review, to which it will have regard.

All these will be considered and reported to the Conference of the Parties at its next meeting.

I look forward to fruitful and valuable cooperation with my colleagues on the Committee and the able support of the Secretariat.

Co-Chairs, distinguished delegates,

In my view the Committee has a valuable role to play in furthering the aims of the Basel Convention: I regard it at this moment rather like a lifeboat, seeking to serve those in need of the assistance that it can offer. The lifeboat has a small but dedicated crew of 15, who are ready to meet the challenges that they face, from great to small, as a professional and expert team working in cooperation. Having now started, I am convinced that we have the confidence in ourselves and trust in one another to carry out the task that we have been elected to perform. If in need, I commend its use to you.

I thank you for your attention.

## Annex VI

### **Declaration of the group of African countries on the occasion of the second session of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal**

Recognizing the efforts of the Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and noting with appreciation the Secretariat's continuous support on the implementation of the Basel Convention, and concerned about fulfilment of the Basel Convention mandate, the Africa group presents the following declaration for adoption and inclusion in the final text of the report of the second session of the Open-ended Working Group of the Basel Convention:

That, due to the urgent need to efficiently implement the Basel and Bamako Conventions, and with close reference to the Action Plan and environmental initiative of the New Partnership for Africa's Development (NEPAD) and given the necessary involvement of the regional and subregional African organizations: the African Union (AU); the Economic Commission for Africa (ECA); the Economic Community of West African States (ECOWAS); the southern African Development Community (SADC); the African Minister's Conference on the Environment (AMCEN), and based on the need to strengthen the African regional training centres, the Africa group considers the following statements important for the implementation of the Basel and Bamako conventions:

- That the effective participation of the representatives of NEPAD, ECOWAS, SADC, AU, ECA and AMCEN in the Basel Convention activities would assist in creating the necessary synergy in implementing the Basel Convention, other multilateral environmental agreements and environmental initiatives in Africa;
- That the Secretariat of the Basel Convention facilitates such full and sustainable participation;
- That the Africa group further requests the Secretariat of the Basel Convention to facilitate the organization of regional meetings through the BCRC with regard to addressing issues pertaining to, among others, the Ban Amendment and the Protocol on Liability and Compensation;
- That the Africa group request the Secretariat of the Basel Convention, through AU, NEPAD and AMCEN, to explore access to funding from the Global Environmental Facility in order to implement the strategic plans and programmes of the Basel Convention;
- That the Africa group recognizes the initiatives of the Secretariat of the Basel Convention and the discussions that have taken place, to address the complexity of the issues relating to the full and partial dismantling of ships. The Africa group has noted the illegal dumping of hazardous waste in the form of "ghost ships", i.e., ownerless or abandoned ships, in developing countries, and requests the Secretariat of the Basel Convention to facilitate, as a matter of urgency, actions to deal with this issue and to consider developing measures to address abandoned ships.

## Annex VII

### Progress report by the Chair of the Mobile Phone Partnership Initiative

Distinguished Co-Chairs, Delegates, Ladies and Gentlemen

On behalf of the Mobile Phone Working Group I would like to present this short progress report on the Mobile Phone Partnership Initiative (MPPI).

#### Establishment

As you will be aware, Switzerland's State Secretary Philippe Roch, President of the Fifth Conference of the Parties, launched the Initiative in December 2002. With the sponsorship of Switzerland, a Senior Programme Officer was selected and engaged to work on partnerships and after some informal inter-sessional discussions, the Mobile Phone Working Group held its first meeting 7-8 April 2003. At that meeting we elected a chair and finalised a work programme, which was subsequently adopted by this body at its first session (28 April-2 May 2003).

#### MPPI Project groups

The Work Programme includes four project areas with eight concrete projects (see annex). Since our first meeting, the Mobile Phone Working Group has commenced the first four projects from Programme. In order of commencement these are:

1. Project 4.1(A): *Awareness and Training on the environmental design of mobile phones*. This project group is chaired by the United States and is very near to completion. My understanding is that the United States will be providing you with an update on the work of this group and from that you will be able to see the very professional leadership being provided. The United States is setting a very high standard for other project groups to follow both in terms of efficient and economical process and substantive output;
2. Project 1.1: *Reuse of mobile phones*. This group will deal with the role of re-use or refurbishment of mobile phones in the waste hierarchy. Increasingly, mobile phones are being discarded after quite short periods of use when they are in fact designed and built to last several years. The refurbishment of used mobile phones can be a better management of raw materials and significantly reduce or delay the generation of waste. Project group 1.1 is chaired by Australia.
3. Project 2.1: *Collection and transboundary movement of used phones*. This group will bring together experts and operators of recovery schemes to share their knowledge and expertise on best practice collection schemes. It is expected the group will also discuss practical issues involved with the transboundary movements of used mobile phones. I am very pleased to announce that the Republic of Korea has agreed to chair this group.
4. Project 3.1: *Recovery and recycling of end of life mobile phones*. The task of this group is to identify existing and needed recycling technologies for the environmentally sound management of mobile phones and to assess demand and supply for such facilities. This group is co-chaired by the United States and Switzerland.

Co-chairs, I believe this represents a very substantial body of work in a short period of time, which reflects very well on the commitment and professionalism of all those involved.

#### Broadening the partnership

In addition to project work, we have undertaken the first steps to broaden the membership of the MPPI and to mobilise interest amongst potential stakeholders. Recently the Secretariat received the first corporate donation to the MPPI from the Shields Environmental Group of the UK<sup>1</sup>. Shields is a major player in the European market and operates Fonebak, the UK mobile phone recycling scheme. Through Fonebak they are refurbishing 150,000 mobile phones per month, which would otherwise be thrown into the general waste stream. Importantly, Shields is ensuring that mobile phones that would otherwise be discarded as early as 6-12 months into their life are re-used by secondary owners for many productive years.

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<sup>1</sup> EUR 25,000.

The Secretariat has also initiated contacts with a number of the global mobile phone network operators, such as Vodafone, Orange, O2 and T-Mobile. From these discussions, the operators have agreed to participate in the project groups formed under the Mobile Phone Partnership Initiative and we further expect they will shortly provide financial assistance to support the Initiative.

Before the third session of the OEWG in April 2004, we expect the Mobile Phone Working Group to meet and:

1. Discuss the role of network operators and other stakeholders;
2. Assess progress on the four projects then well under way or completed;
3. Consider four projects scheduled to commence later in 2004;
4. Consider possible revisions to the MPPI work programme;
5. Consider the financial and resource base of the MPPI.

None of this would be possible without the strong support of the Secretariat, the Parties and Signatories, companies and other stakeholders on the Initiative. I would like to take this opportunity to formally thank those already involved. The list is too long to read now but you will see all these listed in the attachment to my statement.

I would also like to take this opportunity to urge developing country Parties to consider joining the Mobile Phone Partnership Initiative and actively participating in, or leading, its project groups. The Initiative would benefit from their greater participation.

#### **Leadership and lessons**

Co-chairs, I can advise that we are already learning some valuable lessons from the Mobile Phone Partnership Initiative, which can be of direct relevance to future partnerships undertaken by the Basel Convention. These lessons have been incorporated in the draft work programme for the Basel Convention Partnership Programme, which is before us this week in document UNEP/CHW/OEWG/2/10.

I would, however, like to draw the attention of the meeting to two important issues.

First, one of the clear difficulties of engaging the private sector is the reluctance of many companies to be associated with a Convention that includes the phrase “hazardous” in its title. While this will always be an important pillar to our work, it is proving a challenge to the marketing of the Convention to prospective partners.

Public-private partnerships are a valuable mechanism for encouraging and directing non-governmental interest; mobilising resources; and starting attitudinal change. Already on the Mobile Phone Partnership Initiative we are seeing practical collaboration between environmental NGOs and industry on an important waste management issue that would be difficult to imagine in more traditional forums. Through the Initiative we are tapping into resources and enthusiasm from both environmental and industry groups, and bypassing much of the rhetoric which can too often characterise interaction between these groups. This collaboration will lead to practical environmental outcomes and to some shift in attitudes from at least some in industry and the non-government sector.

This needs to be encouraged by the Parties and Signatories.

We need to be more active ourselves in such partnerships. In that regard, I would like to thank the existing members of the Mobile Phone Working Group and participants on all its project groups. In particular, I want to commend Australia, the Republic of Korea, the United States and my own country Switzerland<sup>2</sup> for providing valuable leadership on the project groups on which industry and NGOs are serving. I want to again commend Australia and Switzerland for providing *financial* support<sup>3</sup> to the broader Basel Convention Partnership Programme.

I wish to urge Parties and Signatories in this room to get more involved in the Programme either through leading specific groups, or participating actively on them, by contributing to the financial establishment of the Partnership Programme, or preferably by a combination of these activities.

<sup>2</sup> I am speaking here as Chair of the Mobile Phone Working Group, rather than as the representative of Switzerland.

<sup>3</sup> \$20,000 and \$300,000 respectively.

Co-chairs, it is my firm belief from the practical experience of the Mobile Phone Partnership Initiative that something very valuable and innovative can occur through public-private partnerships and I would urge all Parties and Signatories to seriously consider how they might better contribute to that process.

Marco Buletti (Switzerland)  
Chair - Mobile Phone Working Group

**Mobile Phone Partnership Initiative<sup>4</sup>****Projects - Participating Parties/Signatories and Stakeholders, as on 20 October 2003**

<b>Project</b>	<b>Re-use</b>		<b>Collection</b>		<b>Recycling</b>		<b>Awareness and training</b>			
Title of Project	Project 1.1 Reuse of used mobile Phones	Project 2.1 Collection and transboundary movement of used phones	Project 2.2 Trial of implement. of collection and treatment schemes	Project.3.1 Recovery and recycling of end of life mobile phones	Project 4.1 (A) Design and use	Project 4.1 (B) Collection	Project 4.1 (C) Re-use	Project 4.1 (D) Recycling		
Timetable	7/03-6/04	10/03-3/04	11/04-10/05	10/03-5/04	5/03-10/03	5/04-9/04	6/04-9/04	6/04-9/04		
Order to start	2	3	6	3	1	4	5	5		
Participants										
Manufacturers <sup>5</sup>	- Motorola - NEC - Panasonic - Samsung - Siemens - Sony Ericsson (Pellbäck Sch arp)	- LG - Mitsubishi - Nokia - Samsung (Margetson) - Siemens	To be decided later	- Nokia (Castrén) - Panasonic - Samsung - Sony Ericsson	- Motorola (Liska) - NEC	To be decided later	To be decided later	To be decided later		
Parties / Signatories	- Australia - Canada - Sweden - Switzerland - USA	- Japan - Republic of Korea - Sweden - USA	To be decided later	- Czech Republic Switzerland - USA	- USA	To be decided later	To be decided later	To be decided later		
Basel Convention Regional Centres	- Bratislava	- Beijing - Bratislava - Jakarta	- Beijing - Bratislava - Jakarta	- Beijing - Bratislava	- Bratislava	- Bratislava	- Bratislava	- Bratislava		
Other Stakeholders: - GSM Assoc - GeSI - NGOs - Associations - network providers - Recyclers	- CTIA - GSM Association - Shields (UK)	- Basel Action Network (BAN) - Greener Solutions Group (Germany) - GSM Association - Umicore	- GSM Association	- GSM Association - Shields (UK) - Umicore	- GSM Association - INFORM - Inmetco - IPMI - Princeton University - Recellular (US)	- CTIA - GSM Association	- CTIA - GSM Association	- CTIA - GSM Association		

<sup>4</sup> Parties/Signatories in the MPPI include Argentina, Australia, Belarus, Brazil, Canada, China, Czech Republic, Germany, Japan, Pakistan, Republic of Korea, Sweden, Switzerland, the UK and the USA.

<sup>5</sup> Agreed by manufacturers 8 April 2003, Geneva).