

Summary of the Resumed Session of the 12th Meeting of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal: 4-6 April 2022

Meeting face-to-face for the first time since the start of the COVID-19 pandemic, the second segment of the 12th Meeting of the Open-ended Working Group of the Basel Convention (OEWG-12.2) tackled a prioritized agenda focusing on key issues to address prior to the face-to-face segment of the 15th meeting of the Conference of the Parties (COP-15.2) in June 2022. Delegates tackled agenda items in four broad categories: strategic; scientific and technical; legal, governance and enforcement; and international cooperation and coordination. In OEWG-12 Co-Chair Gillian Guthrie’s words, “Now all roads lead to COP-15.2 in Geneva,” and delegates certainly worked hard over the three days to ensure that they laid a solid foundation so that it “would prove to be a resounding success.”

Under strategic matters, delegates considered whether to develop a new strategic framework and conduct an effectiveness evaluation of the current strategic framework. Parties and observers were invited to submit their comments on this prior to COP-15.2. Parties also concluded work on the development of draft guidelines for environmentally sound management (ESM), which included a draft practical manual for stakeholders to ensure that notifications of transboundary movements meet ESM requirements.

A number of updated technical guidelines were considered during the meeting, including:

- the ESM of wastes consisting of, containing, or contaminated with persistent organic pollutants (POPs);
- incineration on land and on specially engineered landfills;
- the identification and ESM of plastic wastes and for their disposal; and
- the ESM of wastes consisting of, containing, or contaminated with mercury or mercury compounds.

Discussion on the guidelines is expected to continue at COP-15.2.

Other technical and scientific matters included consideration of whether to update the technical guidelines for the ESM of waste lead-acid batteries and on national reporting, including draft practical guidance on the development of national inventories.

On legal, governance and enforcement matters, delegates addressed items addressing consultation with the Committee

administering the mechanism for promoting implementation and compliance, and providing further legal clarity, including possible amendment of Convention Annex entries.

Lastly, the OEWG considered issues around the follow-up partnership to the Partnership for Action on Computing Equipment (PACE), where they decided on amendments to the terms of reference (ToR) of the follow-up partnership, for the inclusion of new types of electrical and electronic waste (e-waste), and the proposed work programme for 2022-2023, for adoption at COP-15.2.

OEWG-12.2 convened in Nairobi, Kenya, from 4-6 April 2022, with virtual participation for those delegates unable to travel.

A Brief History of the Basel Convention

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted in 1989 and entered into force on 5 May 1992. The Convention addresses concerns over the management, disposal, and transboundary movements of hazardous wastes produced worldwide. The guiding principles of the Convention are: the generation and transboundary movements of hazardous wastes should be reduced to a minimum; and hazardous wastes should be managed in an environmentally sound manner, treated, disposed of as close as possible to the source of generation and minimized at the source. There are currently 189 parties to the Convention.

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At the sixth meeting of the Conference of the Parties to the Basel Convention (COP-6) in 2002, parties created the OEWG as a subsidiary body to the COP. The OEWG held its first meeting in 2003. The OEWG assists the COP in developing and continuously reviewing the implementation of the Convention's workplan and specific operational policies and decisions for the implementation of the Convention. The OEWG considers and advises the COP on issues relating to policy, technical, scientific, legal, institutional, administrative, financial, budgetary, and other aspects of the Convention's implementation, including the training and technology transfer needs of regions and the functioning of the Basel Convention Regional Centres. In addition, the OEWG prepares its workplan for the COP's consideration and reports to the COP on the activities carried out between COP meetings.

Key Turning Points

COP-1: The first meeting of the COP to the Basel Convention (COP-1) was held in December 1992. COP-1 adopted a decision requesting industrialized countries to prohibit transboundary movements of hazardous wastes for final disposal to developing countries and noting that transboundary movements of wastes for recovery or recycling should be handled in an environmentally sound manner.

The Ban Amendment: In 1995 at COP-3, parties amended the Convention to ban the export of hazardous wastes for final disposal and recycling from Annex VII countries (Member States of the European Union (EU), the Organisation for Economic Co-operation and Development (OECD), and Liechtenstein) to non-Annex VII countries. The Ban Amendment entered into force in 2019 and currently has 100 ratifications.

In 1998, COP-4 adopted lists of hazardous and non-hazardous wastes subject to the Ban Amendment as Convention Annexes VIII and IX, respectively.

Basel Protocol: COP-5, which convened in 1999, adopted the Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal, which currently has 12 of the 20 ratifications necessary for entry into force.

COP-10: At the tenth meeting of the COP (October 2011, Cartagena, Colombia), delegates adopted decisions on the new Strategic Framework and the Indonesian-Swiss country-led initiative (CLI) to improve the effectiveness of the Basel Convention. The Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes was also adopted.

COP-11: The eleventh meeting of the COP (28 April – 10 May 2013, Geneva, Switzerland), was the first to be held in conjunction with the COPs of the Rotterdam and Stockholm Conventions. Negotiations focused on key elements of the synergies process between the three conventions. COP-11 also created the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE) to tackle the illegal waste trade.

COP-13: At the thirteenth meeting of the COP (24 April – 5 May 2017, Geneva), delegates adopted decisions on, *inter alia*: establishment of the Partnership on Household Waste; the final evaluation of the Strategic Framework in 2021; adoption of a set of practical manuals on ESM of wastes; adoption of the glossary of terms; creation of an expert working group on Review of Annexes I, III and IV and related aspects of Annex IX; authorization of work to finalize the technical guidelines on e-waste; updating technical

guidelines on incineration on land and on specially engineered landfills; and a request to the Secretariat to develop an electronic reporting system.

COP-14: The fourteenth meeting of the COP (29 April – 10 May 2019, Geneva) adopted decisions on, *inter alia*, a Convention amendment on plastic waste, technical guidelines on e-waste, and an update of the technical guidelines on wastes containing mercury.

OEWG-12.1: Due to the COVID-19 pandemic, OEWG-12 convened online on 1 and 3 September 2020. The Secretariat and various expert and working groups briefed OEWG-12 on the status of work items and suggested deadlines for inputs, including on plastic wastes, waste lead-acid batteries, and transboundary e-waste shipments.

2021 Meetings of the Conference of the Parties to the Basel Convention: Parties met online from 26-30 July 2021 with a streamlined agenda to address urgent operational and substantive work including, *inter alia*, the programme of work and budget.

OEWG-12 Report

OEWG-12 Co-Chair Stina Andersson (Sweden) opened OEWG-12.2, observing the preparation period for this meeting, which has spanned two years, was the longest ever. She requested patience for technical challenges from the hybrid format and asked parties not to forget the online participants. Andersson read a note from Co-Chair Gillian Guthrie (Jamaica), inviting parties to further reflect on the global chemical and wastes agenda, made particularly important by the pandemic. Rolph Payet, Executive Secretary of the Basel, Rotterdam and Stockholm Conventions (BRS), expressed confidence that delegates would make progress on the prioritized agenda items.

In opening statements, regional groups highlighted willingness to constructively engage on the strategic framework and consideration of guidelines on waste lead-acid batteries, POPs, plastic wastes, wastes contaminated with mercury, and other matters, to make progress towards the face-to-face segment of COP-15 in June 2022.

Eswatini, for the AFRICAN GROUP, welcomed the Ghana-Switzerland amendment proposal on e-waste. Pakistan, for the ASIA-PACIFIC GROUP, reiterated strong commitment on the plastic waste amendment, which entered into force on 1 January 2021.

Trinidad and Tobago, for the LATIN AMERICAN AND CARIBBEAN GROUP (GRULAC), called for the Basel Convention Regional Centres to be fully utilized, including as research hubs and repositories of scientific information and data. The EUROPEAN UNION (EU) called for updating the technical guidelines on waste lead-acid batteries and looked forward to maximizing the Convention's contribution towards the transition to a circular economy.

CANADA, also on behalf of AUSTRALIA, ICELAND, ISRAEL, JAPAN, NEW ZEALAND, NORWAY, SWITZERLAND, UK and the US, expressed deep concern about the crisis in Ukraine.

Organizational Matters: Co-Chair Andersson reviewed the organization of the online and face-to-face segments of OEWG-12. The Secretariat introduced the scenario note (UNEP/CHW/OEWG.12/INF/1/Rev.2) and proposed schedule (UNEP/CHW/OEWG.12/INF/2/Rev.2) of the face-to-face segment. Delegates approved both without amendment.

Matters related to the work programme of the Open-ended Working Group for the biennium 2020-2021

Strategic Issues: Strategic Framework: On Monday, the Secretariat introduced the draft report on the final evaluation of the strategic framework for the implementation of the Basel Convention for 2012-2021 (UNEP/CHW/OEWG.12/INF/4/Rev.1) and the compilation of comments received on the report (UNEP/CHW/OEWG.12/INF/36).

CANADA, stressing the importance of discussing next steps for a new strategic framework and toward establishing an effectiveness evaluation framework for the Convention, proposed discussing the report and its recommendations in a contact group. COLOMBIA, the EU, GHANA, NORWAY, SWITZERLAND, and SOUTH AFRICA supported contact group discussions. A contact group on strategic matters, co-chaired by Ole Thomas Thommesen (Norway) and Keima Gardiner (Trinidad and Tobago), was mandated to discuss the report and its recommendations.

The Strategic Matters Contact Group met on Tuesday evening. Delegates exchanged views on developing a future strategic framework and on conducting an effectiveness evaluation. Parties generally agreed that a strategic framework is important for the Convention as a tool to ensure it meets its objectives, but expressed concern that developing a new strategic framework would be time consuming. Possibilities proposed were to either enhance or extend the current strategic framework.

Outcome: On Wednesday, the OEWG agreed to invite parties and observers to submit their comments on the matter by 13 May 2022.

Development of Guidelines for Environmentally Sound Management: On Monday, the Secretariat introduced this agenda item (UNEP/CHW/OEWG.12/3), including the draft practical manual for stakeholders to ensure that notifications of transboundary movements met ESM requirements (UNEP/CHW/OEWG.12/INF/5/Rev.1). CANADA, supported by PAKISTAN and the US, requested further discussion in a contact group to contribute further comments and move the document forward.

The BASEL ACTION NETWORK (BAN) expressed concern that there was a lack of consideration of human health aspects, including community health exposure.

OEWG-12 Co-Chair Andersson requested the Secretariat be entrusted to prepare the final draft of the manual in consultation with interested parties. CANADA requested this be done by the end of the meeting to have an outcome prior to COP-15.2. Co-Chair Andersson clarified the Secretariat would facilitate discussions with interested parties, including in an online setting. Delegates agreed.

Outcome: On Wednesday, the OEWG recommended that COP-15.2 adopt the draft guidelines (UNEP/CHW/OEWG.12/CRP.19).

Scientific And Technical Matters: Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants:

On Monday, the Secretariat introduced this item, noting the intersessional process to revise these guidelines (UNEP/CHW/OEWG.12/INF/7/Rev.1, INF/8/Rev.1, and INF/9/Rev.1). The EU introduced its proposed revisions to the three draft updated technical guidelines regarding POPs (UNEP/CHW/OEWG.12/CRP.4, UNEP/CHW/OEWG.12/CRP.5 and UNEP/CHW/OEWG.12/CRP.6), saying the conference room papers (CRPs) are intended to facilitate further discussion and take into account the views of a number of parties.

Co-Chair Andersson recommended that a contact group on technical matters be established, co-chaired by Patrick McKell (UK)

and Sam Adu-Kumi (Ghana), to discuss this agenda item. Delegates agreed.

On Monday, the Technical Matters Contact Group reviewed the draft practical guidance on the development of inventories of obsolete pesticides and pesticide-container waste paragraph by paragraph, discussing parties' revision proposals. Among other things, delegates discussed whether to refer to "empty pesticide containers" as the Food and Agriculture Organization of the UN (FAO) and World Health Organization (WHO) use in their guidance, or "pesticide container waste" as used in Convention decision BC-14/10 on national reporting. They also discussed a possible listing of entries in Convention Annexes I, II and VIII relevant to these types of wastes.

On Tuesday, the Technical Matters Contact Group reconvened to review and approve minor revisions to the draft updated technical guidelines on the ESM of wastes consisting of, containing or contaminated with the pesticides aldrin, alpha hexachlorocyclohexane, beta hexachlorocyclohexane, chlordane, chlordecone, dicofol, dieldrin, endrin, heptachlor, hexachlorobenzene, hexachlorobutadiene, lindane, mirex, pentachlorobenzene, pentachlorophenol and its salts, perfluorooctane sulfonic acid, technical endosulfan and its related isomers or toxaphene, or with hexachlorobenzene as an industrial chemical (UNEP/CHW/OEWG.12/CRP.6).

The group and two consultants reviewed several proposed revisions to the draft updated technical guidelines on the ESM of wastes consisting of, containing or contaminated with perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF) and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds. The group asked the consultants to develop additional language on analytical methods recently endorsed by the Nordic Council of Ministers and others.

The group also discussed the draft updated general technical guidelines on the ESM of wastes consisting of, containing or contaminated with POPs (UNEP/CHW/OEWG.12/CRP.4). On defining the concentration level at which POPs waste does not have to be destroyed or irreversibly transformed so that it no longer exhibits the characteristics of POPs ("low POP content"), a group of countries suggested postponing the discussion until COP-15.2, since they are currently working to agree on harmonized levels and may be able to offer a concrete proposal at the COP. One party suggested a standard for POP content in wastes involving aqueous film-forming foams and asked that its proposal be reflected in the text for discussion at COP-15.2.

The group also debated alternative formulations for a paragraph in the updated guidelines regarding the direct application onto land of POPs wastes, and a suggestion by one party, supported by a second, that new text be added in several parts of the guidelines regarding the destruction of per- and polyfluoroalkyl substance wastes through co-incineration in cement-kilns.

The group agreed that further work on low-POP content will await COP-15.2 discussions and that interested parties could work informally on new text on co-incineration intersessionally before COP-15.2.

On Wednesday morning, Contact Group Co-Chair Adu-Kumi noted the dispute about land application and new references to co-incineration would be discussed before COP-15.2 by the Small Intersessional Working Group (SIWG) on the technical guidelines on the ESM of POPs as wastes. An observer, supported by a party,

offered new text and references on co-incineration for consideration by the SIWG.

Outcome: On Wednesday, the OEWG recommended that COP-15.2 use the updated documents (UNEP/CHW/OEWG.12/CRP.16, UNEP/CHW/OEWG.12/CRP.17 and UNEP/CHW/OEWG.12/CRP.22) as a basis for its discussions.

Technical guidelines on incineration on land and on specially engineered landfill: On Monday, the Secretariat introduced this agenda item (UNEP/CHW/OEWG.12/4, OEWG.12/17, INF/11/Rev.1 and INF/12/Rev.1). CANADA, as co-lead country on the draft updates of these two technical guidelines, introduced the latest guideline drafts (UNEP/CHW/OEWG.12/CRP.2 and CRP.3), underscoring that these CRPs include comments received since COP15.1.

OEWG-12 Co-Chair Andersson suggested this matter be forwarded to the Technical Matters Contact Group for further deliberations, to which delegates agreed. The contact group discussed this issue on Tuesday. The group swiftly agreed on the draft updated technical guidelines on the environmentally sound incineration of hazardous wastes and other wastes, as covered by disposal operations D10 and R1 (UNEP/CHW/OEWG.12/CRP.3).

Discussion on the draft technical guidelines on specially engineered landfill (D5) (UNEP/CHW/OEWG.12/CRP.2) focused on whether to endorse a single liner system or a double liner with leak detection system for such landfills. Many countries advocated for the latter as the most modern technology and best practice to protect human health and the environment, while a group of countries argued a single liner system can offer equivalent protection and advocated guidance language allowing countries to choose which system to adopt “according to national circumstances and national legislation.” The group could not reach a compromise, so they left this section in brackets for further deliberation at COP-15.2

Outcome: On Wednesday, the OEWG recommended that COP-15.2 use the updated documents (UNEP/CHW/OEWG.12/CRP.9 and UNEP/CHW/OEWG.12/CRP.15) as the basis for its discussions.

Technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal: On Monday, the Secretariat introduced this agenda item (UNEP/CHW/OEWG.12/4, OEWG.12/17, and INF/14/Rev.1). The EU introduced its proposed revisions to the draft updated technical guidelines (UNEP/CHW/OEWG.12/CRP.7), saying it provides a basis for further discussion, taking into account all previous discussions and comments to advance the guidelines as much as possible.

OEWG Co-Chair Andersson proposed that this matter be referred to the Technical Matters Contact Group, to which delegates agreed.

The Technical Matters Contact Group discussed this item on Tuesday and Wednesday. On Wednesday, Co-Chair McKell noted initial discussions on Tuesday night regarding prevention and minimization had not been productive. He outlined the planned procedure for handling the draft guidelines going forward. SIWG Co-leads China, Japan, and the UK were updating the guidelines, would accept further comments by parties and observers until 28 April 2022, and then draft a revision, taking any comments into account. The revised draft would then be presented to COP-15.2 as a CRP. Co-Chair McKell promised to circulate a draft of the CRP to SIWG members for informational purpose ahead of the COP.

Co-lead Japan provided an explanation of how the SIWG approached the scope and interpretation of terms in the proposed update. On scope, she noted many observations that plastic waste is

everywhere and in numerous products, so other Basel Convention technical guidelines already partially cover the management of plastic waste; she thus emphasized the intention in this work to avoid overlaps with other technical guidelines already in place. On interpretation of terms, she said they received many comments about difficulties in operationalizing certain terms, including those in entries Y48 and B3011 referring to “almost free from contamination and other types of wastes” and “almost exclusively consisting of,” and it would be helpful for the guidelines to provide more information on how to operationalize these “tricky” terms.

On scope, parties debated whether waste pneumatic tires should be included. Several parties and observers shared diverging opinions, some noting that because tires made with synthetic rubber contain plastic, they should be within the scope. Others acknowledged that many pneumatic tires contain plastic, but noted that tires are subject to other technical guidelines and should therefore be excluded here to avoid overlaps. Parties agreed to delete waste pneumatic tires from the scope.

One party queried whether waste textiles should fall within scope. Others responded that, to the extent they contain plastics, they should, because the management of these waste types would be similar to that of other plastics. Another party suggested adding examples like plastic separated from aseptic packaging (Tetrapak) and those generated from marine and aerospace activities.

On plastic wastes in cement kilns, parties agreed to use the term “co-processing” and delete the bracketed terms “thermal treatment” and “co-incineration” to be consistent with language in other Convention technical guidelines.

On interpretation of the terms “almost free from contamination and other types of wastes” and “almost exclusively consisting of” in Annex entries Y48 and B3011, an observer offered a table to insert, showing different interpretations by seven countries and the EU. Noting related work on this issue by the Convention’s Plastic Waste Partnership, a group of countries said they could agree to the inclusion if it came with correct references to official sources for the information.

The contact group then addressed issues the SIWG had listed, which the latter could not discuss due to time constraints. Parties agreed to updated figures in the citation for plastic waste disposed of, incinerated, or recycled. On defining “polymers,” parties agreed to a proposal using a general definition from Britannica, while noting that many definitions exist, and citing the definition used by the OECD as one example. The co-leads also welcomed other suggestions for references on the definition of polymer in submissions due by 28 April 2022. Parties agreed to a proposed set of examples of plastic waste that should be presumed to be hazardous waste unless it can be shown that it does not possess or exhibit a hazardous characteristic specified in Annex III of the Convention. Parties also accepted a compromise proposal that merged three formulations offered in the SIWG regarding listings provided in Annex IV, Parts A and B of the Convention relevant to disposal operations for plastic waste that occur prior to their submission to recycling, their use as fuel for energy generation, and disposal in specially engineered landfills or incineration on land.

Outcome: On Wednesday, the OEWG plenary recommended that COP-15.2 use these updated guidelines UNEP/CHW/OEWG.12/CRP.23) as a basis for its discussions.

Technical guidelines on the environmentally sound management of wastes consisting of, containing, or contaminated with mercury or mercury compounds: On Monday, the Secretariat introduced the relevant documents (UNEP/CHW/OEWG.12/4, 12/17, INF/13/Rev.1). Japan, as lead country in the updating of these guidelines, introduced UNEP/CHW/OEWG.12/CRP.1, noting it reflects the latest discussions and incorporates relevant information from Minamata Convention COP-4 (21-25 March 2022). Japan proposed using CRP.1 as basis for contact group discussions. The Minamata Secretariat provided an update on Minamata Convention COP-4, noting the group of technical experts is to collaborate with the Basel Convention's SIWG to exchange information and avoid duplication of work.

The OEWG referred this item to the Technical Matters Contact Group, which addressed it on Tuesday. The Secretariat opened the contact group discussion by outlining the results of Minamata Convention COP-4.2 relevant to the discussion. SIWG co-lead Japan outlined how the draft guidelines had been revised to take into account comments submitted by parties since Basel COP-15.1 and to account for the outcomes of Minamata COP-4.2. During the morning session the group focused on reviewing proposed revisions responding to post-COP-15.1 comments, and in the evening session it reviewed the Minamata COP-inspired revisions.

Outcome: On Wednesday, the OEWG recommended that COP-15.2 use these updated guidelines (UNEP/CHW/OEWG.12/CRP.20) as a basis for its discussions.

Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries: On Monday, the Secretariat referred to the relevant portion of its note on the technical guidelines (UNEP/CHW/OEWG.12/4). Parties agreed the guidelines need updating. While there was consensus on the need for guidelines on lithium-ion and electric vehicle batteries, parties disagreed on whether the guidelines on lead-acid batteries should be expanded to include these, or whether a stand-alone set of technical guidelines should be developed on the ESM of other types of waste batteries, particularly those containing lithium.

Following an exchange of views, the OEWG agreed to record recommendations in the meeting report to be submitted to COP-15.2 and closed this agenda item.

National reporting: On Monday, the Secretariat introduced the relevant documents (UNEP/CHW/OEWG.12/5, 12/17). Parties exchanged views on the scope of the documents and whether to have a contact group or record discussions in the meeting report for COP-15.2. Responding to CANADA's observation that the development of inventories for national reporting is a priority for many countries, the OEWG asked the Technical Matters Contact Group to consider the draft practical guidance on the development of inventories of plastic waste (UNEP/CHW/OEWG.12/INF/15/Rev.1), the draft practical guidance on the development of inventories of obsolete pesticides and pesticide-container waste (UNEP/CHW/OEWG.12/INF/16/Rev.1), and the draft practical guidance on the development of inventories of waste batteries containing lithium (UNEP/CHW/OEWG.12/INF/17/Rev.1).

The Technical Matters Contact Group reviewed comments and proposed revisions to each guidance during its Monday and Tuesday sessions.

Outcome: On Wednesday, the OEWG agreed to invite parties and observers to submit their comments on the updated guidance documents (UNEP/CHW/OEWG.12/CRP.8, UNEP/CHW/OEWG.12/CRP.13, and UNEP/CHW/OEWG.12/CRP.14) before 28 April 2022, for possible consideration at COP-15.2.

Plastic waste: On Monday, the Secretariat introduced its note on a possible future assessment of the effectiveness of Convention measures to address plastic waste and on possible further activities that could be conducted under the Convention (UNEP/CHW/OEWG.12/INF/20/Rev.1), and a report on the plastics-related outcomes of the face-to-face segment of the fifth United Nations Environment Assembly (UNEA 5.2) held in March 2022 (UNEP/CHW/OEWG.12/INF/21/Rev.2). NORWAY, supported by PAKISTAN, said further activities under the Convention should continue work started at COP-14 and complement the legally-binding agreement (LBA) mandated by UNEA-5.2. NORWAY suggested the Basel Convention focus on: plastic waste minimization; better management of plastic waste; chemical additives in plastic wastes; and effective implementation of the Annex amendments agreed at COP-14.

The EU did not favor the establishment of an expert group, and suggested discussion of the proposed recommendations in Annex II of UNEP/CHW/OEWG.12/INF/20/Rev.1 be held at COP-15.2 rather than at the OEWG. CANADA, supported by the US, BRAZIL, and CHINA, agreed it was premature to assess amendment effectiveness. SAUDI ARABIA stressed any future Convention work should align with and complement the LBA mandated by UNEA-5.2.

Outcome: Delegates agreed to note the discussion, invite further comments from parties and observers to be submitted to the Secretariat by 13 May 2022, and the Secretariat to publish the comments online for possible consideration by COP-15.2.

Legal, Governance and Enforcement Matters: Consultation with the Committee administering the mechanism for promoting implementation and compliance: On Monday, the Secretariat introduced this agenda item, including the draft guidance concerned (UNEP/CHW/OEWG.12/9, OEWG.12/17, INF/23/Rev.1 and INF/24/Rev.1). The EU welcomed the draft guidance on implementing paragraph 4 of Article 6 of the Convention (transit of transboundary movements) and suggested that OEWG-12 could agree that COP-15.2 should adopt the draft guidance once additional comments submitted by the EU have been taken into account. On paragraph 11 of Article 6 (insurance, bond and guarantee), he suggested OEWG-12 recommend that COP-15.2 adopt the guidance document.

TURKEY urged being open to ideas and proposals of all parties when implementing the Basel Convention, regardless of whether they are party to other treaties such as UN Convention on the Law of the Sea. On transboundary transit issues, he proposed changing the text to include taking continental shelves into account as they are considered a marine area. He said Turkey would provide further written comment prior to COP-15.2.

CANADA, on distinguishing between exclusive economic zones and territorial seas, suggested the agenda item be referred to the Legal Matters Contact Group for further discussion.

OEWG Co-Chair Andersson suggested that the Secretariat be requested to prepare a revised document in consultation with a small group of interested parties for discussion on Wednesday. Delegates agreed.

Outcome: On Wednesday, the OEWG, noting interested parties had met with the Secretariat to revise the document, agreed to recommend that COP-15.2 adopt both guidance documents (UNEP/CHW/OEWG.12/CRP.21).

Providing further legal clarity: On Monday, the Secretariat introduced the agenda item on waste electrical and electronic equipment (Annex IV and entries A1180 and B1110 in Annexes VIII and IX to the Basel Convention, which mirror each other), noting two relevant amendment proposals have been submitted (UNEP/CHW/OEWG.12/10, OEWG.12/17, INF/25/Rev.1, INF/26, INF/27/Rev.1 and INF/28).

The EU noted that amendments proposed by Ghana and Switzerland regarding e-waste entries will be considered for possible adoption at COP-15.2 and are thus outside the scope of the OEWG, however the substance of the proposal is of relevance.

SWITZERLAND said their amendment proposal with Ghana calls for considering those e-wastes deemed non-hazardous to be controlled by the Basel Convention, therefore subjecting all e-waste to the Convention's prior informed consent (PIC) procedure. He said the main objective is to ensure non-hazardous e-waste is referred to proper breakdown facilities to avoid breakdown that can be harmful. The e-waste proposal and the expert working group report on the revision of annexes are closely linked and should be discussed by the OEWG. He urged the OEWG to discuss this matter and use these discussions as the basis of their proposal for moving non-hazardous waste to Annex II.

GHANA noted improper, illegal transboundary e-waste traffic is prevalent in many developing countries, particularly in Africa. He said the amendment proposal is timely and will further protect human health and the environment, while also improving monitoring and management capacities.

NORWAY said including non-hazardous e-waste under the PIC procedure will add to countries' regulatory toolbox for managing e-waste.

PAKISTAN supported the proposal, and called for further discussion in the contact group.

NIGERIA noted the proposal is to prevent dumping of e-waste in developing countries that do not have the capacity to distinguish between hazardous and non-hazardous e-waste. He noted it would also enhance the application of circular economy practices in this sector. MALI suggested the proposal will increase transparency on the movements of this kind of waste.

Noting that the issue of e-waste has been ongoing, and it is now ripe for addressing, CANADA said she looked forward to making progress on table entries. ETHIOPIA, the EU, and PAKISTAN welcomed further discussion in a contact group.

The US cautioned proposals should be backed by science. BAN supported the proposal, noting a similar annex amendment had been accepted by the COP in 2018 for mixed plastic waste. He highlighted a loophole existed in the proposal whereby traders could export non-functional electrical and electronic equipment by claiming it is not waste because there is an intention to repair the equipment in the destination country. He urged closing the loophole before adopting any relevant decisions, saying all e-waste is waste whether it is going to be repaired or not.

The Information Technology Industry Council (ITI) supported improving entries A1180 and B1110 in Annexes VIII and IX, respectively, saying there is the potential for unintended

consequences, and urged revisiting text on retaining valuable wastes and further work on the PIC procedure.

A Legal Matters Contact Group, co-chaired by Mari-Liis Ummik (Estonia) and Florisvindo Furtado (Cabo Verde), was established to further consider these issues.

On Monday evening, parties and observers discussed the proposed changes for entries A1180 (Annex VIII) and B1110 (Annex IX). Among other issues, they exchanged views on whether the entry should have three parts (whole equipment, components, and fractions from pre-treatment), and whether the term "scrap" is still necessary.

On Tuesday afternoon, the group discussed two options for the heading: "Electrical and electronic waste" and "Waste electrical and electronic equipment, component and scrap."

Some parties reiterated their concerns on the use of the term "scrap," saying it is unclear.

The group also discussed the substance of the e-waste entries and the three categories of e-waste: equipment, components, and fractions. Parties and observers engaged heavily with the first and third categories. There was nothing contentious to discuss on the second (components).

On the text relating to equipment, parties and observers had extensive discussions, particularly on how to deal with whole equipment that has a component containing or contaminated with constituents listed in Annex I of the Convention (Annex I constituent) to an extent that they exhibit a characteristic listed in Annex III of the Convention (Annex III characteristic). Views differed on whether it is the equipment itself, or a component, or a constituent thereof, exhibiting an Annex III characteristic that triggers the classification as (1) "always hazardous" or (2) "may be hazardous." Parties suggested, and provided comments on, illustrative examples relating to the two classifications, noting these examples should be read in the context of the chapeau. Examples of (1) include glass from cathode ray tubes or a battery included on list A, a mercury switch, a lamp containing mercury, a fluorescent tube containing mercury, a capacitor containing printed circuit boards, or a component containing asbestos. Examples of (2) include certain circuit boards, display devices, or plastic components containing brominated flame retardant.

On fractions, the group discussed various options like "waste in any other form," "wastes," and "fractions from [pre-]treatment [operations]," and including examples of pre-treatment like shredding.

After agreeing on the various textual options for entry A1180 (Annex VIII), Co-Chair Ummik briefly described how the Co-Chairs and the Secretariat will reflect the parties' intent to mirror the language of these agreed options in B1110 (Annex IX) on non-hazardous waste, to ensure consistency between these entries.

Some parties proposed that, in addition to the mirrored language, entry B1110 should include mixed plastic fractions coming from e-waste (entry Y48) to clarify that this waste type is not exempt from the PIC procedure. There was no opposition to this proposal.

Co-Chair Ummik observed that the contact group had completed its mandate, noting that the Co-Chairs and the Secretariat will finish editorial work on the recommended options for possible amendments to the e-waste entries, for COP-15.2 to consider.

During the final plenary session on Wednesday, SWITZERLAND noted: progress made and outstanding issues remaining in e-waste discussions; important feedback on the Switzerland-Ghana

amendment proposal on e-wastes; and strong support towards a good outcome to be adopted at COP-15.2 on their amendment proposal. GHANA added that the international trade of e-waste is particularly important to developing countries, often through second-hand equipment.

Outcome: The OEWG agreed to recommend that COP-15 consider using as the basis for its work the version of the recommendations for possible amendments to entries A1180 (Annex VIII) and B1110 (Annex IX) reflected in UNEP/CHW/OEWG.12/CRP.18.

International Cooperation and Coordination: Basel Convention Partnership Programme: On Monday, the Secretariat introduced documents relevant to the follow-up partnership to PACE (PACE II) (UNEP/CHW/OEWG.12/12, Annexes 1 and 2 of INF/32/Rev.1, INF/37, INF/38) and their main changes. Parties and stakeholders exchanged views on the revised ToR and the Work Programme for the biennium 2020-2021. PAKISTAN, ITI, BAN, and the US expressed interest in pilot projects, including those to improve and digitize PIC processes.

The OEWG agreed in principle on the ToR and the biennium 2020-2021 Work Programme, and decided to discuss comments relating to PACE II in the Strategic Matters Contact Group.

On the revised draft overall guidance document on the ESM of household waste (UNEP/CHW/OEWG.12/INF/29/Rev.1) developed by the Household Waste Partnership, following the EU's suggestion, the OEWG agreed to invite further comments on the draft guidance until 13 May 2022 and forward the matter to COP-15.2.

The Strategic Matters Contact Group met on Tuesday. On the revised ToR for PACE II, parties and observers engaged with text on, among others, undertaking special outreach to youth, stakeholder categories, the circular economy, and life-cycle thinking. Parties agreed that the express mention of youth as a specific target for outreach and awareness-raising activities to enhance public participation in e-waste management activities would not be to the exclusion of other stakeholders. Following a broadly supported proposal, the parties agreed to recognize the informal waste sector as a stakeholder to be involved in e-waste management activities. Parties and stakeholders also reflected on the terms "circular economy" and "life-cycle thinking" and on various activities related to e-waste management, such as refurbishing, repairing, and reusing.

On the 2022-2023 PACE II work programme, parties exchanged views on the development of guidance documents and pilot projects. Some parties preferred an overall guidance document rather than spending too much time developing various guidance documents (Option 3), while others preferred to have three separate documents providing detailed guidance on different items (Option 1). Following discussions, parties agreed to the development of a guidance document that could cover each of the new e-waste types, such as television screens, audio and video equipment, and heating and cooling equipment (Option 3 with amendments). Parties briefly exchanged views on pilot projects but, in view of time running short, agreed to consider these separately in future discussions.

Parties then swiftly agreed on the PACE section of the draft decision text on the Convention's Partnership Programme, agreeing to amend it to state that the OEWG recommends that COP-15.2 adopt (rather than simply welcome) the amendments to the ToR for the inclusion of new e-waste types and the proposed work programme for 2022-2023, considering the parties had successfully agreed on this matter.

Co-Chair Gardiner concluded the morning contact group by noting that the agreed text would be forwarded as separate CRPs for adoption by the OEWG.

Outcome: On Wednesday, the OEWG recommended COP-15.2 adopt three documents (UNEP/CHW/OEWG.12/CRP.10, UNEP/CHW/OEWG.12/CRP.11, and UNEP/CHW/OEWG.12/CRP.12) as discussed in the Contact Group.

Adoption of the Report and Closure of the Meeting

During Wednesday afternoon's plenary session, the Secretariat introduced the report of the meeting, explaining that the report of this face-to-face segment of OEWG-12 will be in two parts: the first, covering Monday's plenary and reflected in UNEP/CHW/OEWG.12/L.2; and the second, covering Wednesday's plenary, which Rapporteur Mduzuzi Dlamini (Eswatini) will draft with the Secretariat's support. Both parts will be contained in an addendum to the report on the September 2020 online segment, so that the two segments will be captured in one meeting report.

Rapporteur Dlamini presented the first part of the draft report for the face-to-face segment (UNEP/CHW/OEWG.12/L.2) on the screen. After minor comments, the parties approved the report as amended from the floor.

BRS Executive Secretary Payet led a round of applause for the hard work by OEWG-12.2 delegates through the challenges posed by a hybrid meeting. Noting it was the first OEWG session held just two months before a COP, he expressed confidence that parties had paved the way for a successful COP-15.2. Payet also noted that the BRS High-level Segment for the COP will be held on 1 June 2022 in Stockholm, Sweden, in connection with the Stockholm+50 conference, which should further raise the profile of the three chemicals and wastes conventions.

GRULAC expressed appreciation for the work updating the technical guidelines on specially engineered landfills, and stressed the importance of these reflecting best environmental practices and best available technology. He urged that further work to update the plastic waste technical guidelines fully reflect the decisions on plastics taken at UNEA-5.2. He also noted that Uruguay has volunteered to lead the work updating the technical guidelines on waste lead-acid batteries.

Calling OEWG-12.2 a "most important meeting," the AFRICAN GROUP expressed satisfaction with the "excellent work" done to make progress on issues such as incineration, mercury waste, obsolete pesticides, and lead-acid batteries. She called for a moratorium on plastic waste shipments while Africa carries out an assessment on plastic waste using the new guidance on inventories for national reporting.

The EU congratulated all OEWG-12.2 participants on their hard work and progress achieved, saying it would make a solid contribution to the shared ambition to contribute toward the Sustainable Development Goals. He particularly welcomed work done on PACE II, mercury waste, POPs, and incineration, which should pave the way for adoption at COP-15.2. He expressed the EU's readiness to continue work over the coming weeks, particularly regarding updated technical guidelines on plastic waste, whose adoption he suggested would constitute an important contribution by the Basel Convention toward realizing the binding international instrument on plastic waste envisioned by UNEA-5.2.

KENYA thanked the Secretariat for considering Nairobi to host the OEWG.

OEWG-12 Co-Chair Andersson thanked all delegates for their active and constructive participation. Proclaiming “We did it!” she said the progress made through the online and hybrid sessions demonstrated the strong commitment of the Basel Convention community. She echoed Payet’s confidence that the OEWG work would pave the way for a successful COP.

OEWG-12 Co-Chair Guthrie called “exemplary” the diligence and commitment shown by the OEWG over three years of work under extraordinary and at times difficult pandemic conditions. She noted that OEWG-12.2 had as many participants online as in-person. “Now all roads lead to COP-15.2 in Geneva,” which she expressed hope would prove “a resounding success.”

Co-Chair Guthrie closed the meeting at 4:41 pm East African Time (EAT).

A Brief Analysis of OEWG-12.2

Some trash is recycled, some is thrown away, some ends up where it shouldn't end up.

~ Carlo Ratti

Ensuring harmful waste is treated in the proper manner and shipped to the right places is the crux of the Basel Convention. The second segment of the Basel Convention’s 12th meeting of the Open-ended Working Group (OEWG-12.2) met for a short hybrid meeting to ensure that its mission continues. Over the course of three days, parties tackled a packed agenda of 13 priority items ahead of the face-to-face segment of the fifteenth meeting of the Conference of the Parties (COP-15.2) to the Basel Convention, scheduled in June 2022. This session was necessary to clear the decks for the trickier issues requiring political negotiations and decisions at the COP, such as low-persistent organic pollutant (POP) content, waste electrical and electronic equipment (WEEE), and plastics.

In a mostly congenial atmosphere, delegates tackled issues such as the strategic framework, updates on a plethora of technical guidelines, issues requiring further legal clarity, and the Basel Convention Partnership Programme. This analysis examines the week’s proceedings and looks at how the outcomes advanced the work of the Convention ahead of COP-15.2.

Laying the Foundation

The important thing is that you've got a strong foundation before you start to try to save the world...

~ Richard Branson

It was important for OEWG-12.2 to conclude as many agenda items as possible to lay a strong foundation for COP-15.2. Addressing priority agenda items ahead of time allows sufficient time for discussions on more contentious or critical issues at COP-15.2.

OEWG-12.2 was successful in this endeavor. Delegates, mindful of the limited hours, resolved to work in the evenings to conclude their agenda. When issues were contentious, such as items with low-POP content, they were referred to the appropriate Small Intersessional Working Group (SIWG) to try to make further progress ahead of COP-15.2. The hope is the small size of the respective SIWGs will create a more conducive negotiating environment and make greater headway on the topic.

Many of the negotiations did not finalize guidelines or come to a conclusive agreement. While this was expected, delegates still worked hard to ensure outcomes were reached that would allow for

more directed discussions at COP-15.2. This is best exemplified by the discussion on the strategic framework. No agreement was reached at OEWG15.2 on whether to develop a new strategic framework to guide the Convention’s work or enhance or extend the current strategic framework. Similarly, no agreement was reached on whether to conduct an evaluation on the Convention’s effectiveness. Delegates instead explored the multiple options available to them regarding the strategic framework, including how long an extension should be. Recognizing this issue required more consideration and input, delegates instead agreed to invite parties and observers to submit comments to the Secretariat on whether to extend or enhance the strategic framework, and/or conduct an effectiveness evaluation. This allows for a document with a comprehensive range of views that parties can build on during their discussions at COP-15.2, rather than having to start from scratch.

Soft Power

I know it makes no sense, but believe me it is true: to be soft is to be strong.

~ Richelle E. Goodrich

The OEWG-12.2’s Technical Matters Contact Group had arguably the heaviest agenda of all the contact groups. With seven agenda items to consider, the group took the better part of two days and two nights to finish its work. While mostly friendly (with parties even congratulating themselves on the fast pace and amiable manner of these discussions), there were moments of contention. One such example was the specially engineered landfill discussion on single versus double liner systems for hazardous waste disposal. A group of countries pushed for considering the older single liner system as providing equivalent protection to the more modern and more widely-adopted double liner system with leak detection between the layers. The question was, should the Basel technical guidelines recognize current best environmental practice or reflect current law and practice?

During the discussion, one party stated the voluntary updated technical guidelines (and any other guideline for that matter) should be “the gold standard” of what is possible. This, they asserted, should reflect global best practices regardless of existing national or regional legislation. Officials can then use these guidelines to suggest changes to national legislation and practice to reflect what has been globally declared to be best practice. One observer noted this debate made evident what some had long suspected, that the Basel Convention wields considerable “soft power.”

This soft power can be extended to other guidance and manuals and legal clarity issues, such as the guidance for helping countries prepare national inventories of plastic waste and waste lithium batteries to include in their reporting to the Basel Convention. It also allowed for amendments to the Convention’s annexes, leading to the first steps in taking legally binding action on plastic waste.

This time around, discussions focused on e-waste. There are two e-waste-related amendment proposals that will be discussed at COP-15.2. An amendment proposed by Ghana and Switzerland, which seeks to alter the Convention’s annexes to make transboundary movement of non-hazardous e-waste subject to the same prior informed consent (PIC) procedures as hazardous e-waste. PIC itself is arguably a type of soft power: instead of a blanket ban, trade is required to be transparent so governments can pick and choose when to intercede. The other amendment proposal offers clarifications in Annex listings to make it clearer when an e-waste should be

considered hazardous; this affects enforcement of current bans and application of PIC requirements.

Much of the substance of the e-waste discussion echoes that of other meetings of the OEWG and COP for some 20 years, the forums for several attempts to amend Convention annex entries and agree on technical guidelines on environmentally sound management of e-waste. The practical application of the compromises reached through these past efforts raised almost as many new questions as they resolved. Some OEWG-12.2 delegates wanted to leave detailed discussion to COP-15.2, but others, recognizing that the issues needed more discussion at a less political level than a COP, welcomed an exchange of ideas and positions first at OEWG-12.2. Proponents of the amendments hope this may pave the way for coalition-building and spotting potential compromises before COP-15.2 convenes, paving the way for COP decisions this year.

Moving Forward

If everyone is moving forward together, then success takes care of itself.

~ Henry Ford

Delegates left OEWG-12.2 with a certain sense of satisfaction. As Co-Chair Gillian Guthrie commended delegates for their “exemplary” diligence, it was evident that three long, hard days of work had paid off. Several items are essentially decision-ready for the COP as a result of OEWG-12.2 deliberations. These include the practical guidance on preparing national inventories, the guidance on transit transboundary movements, and the technical guidelines on incineration on land and on obsolete pesticides and pesticide containers involving POPs. Others, such as the updates of technical guidelines on mercury wastes, POPs, and specially engineered landfills, have narrowed the issues under dispute enough to allow more focused COP negotiations.

There are, however, still two issues likely to prove contentious at COP-15.2: the e-waste amendment proposals (as explained above) and the update of the technical guidelines on plastic wastes. The latter is contentious precisely because Basel Convention parties realize that, even though the technical guidelines will be “voluntary” and “nonbinding” once agreed, they will nonetheless become an international “gold standard.” As such, they are likely to influence enforcement of the plastics annex amendments agreed at COP-14, as well as the upcoming negotiations on a legally binding agreement on plastic pollution launched by the UN Environment Assembly. Although the guidelines are nonbinding, they may influence binding outcomes. This is the Convention’s potential “soft power” in a nutshell. And it is this power that shows the Convention continues to take strong, steady steps forward.

Upcoming Meetings

2022 SAICM Regional Meetings: The International Conference for Chemicals Management Bureau agreed to convene regional meetings to undertake strategic discussions to prepare for the fourth meeting of the intersessional process considering the Strategic Approach to International Chemicals Management (SAICM) and the sound management of chemicals and waste beyond 2020. The Latin American and Caribbean regional meeting will take place from 6-7 May 2022 in Montevideo, Uruguay. The Central and Eastern Europe regional meeting will take place from 12-13 May 2022 in Prague Czech Republic. **www:** saicm.org/

Plastic Pollution: The meeting of the UNEP *ad hoc* open-ended working group to prepare for the work of the intergovernmental negotiating committee (INC) to end plastic pollution, including in the marine environment, will meet to set out the terms of reference for the INC. Space will be made available at the venue on 29 May for multi-stakeholder dialogues, including industry, and regional coordination meetings. **dates:** 30 May – 1 June 2022 **location:** Dakar, Senegal **www:** unep.org/events/unep-event/meeting-ad-hoc-open-ended-working-group-oweg-prepare-work-intergovernmental

Basel, Rotterdam and Stockholm Conventions High-level Segment: The High-level Segment of the meetings of the Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions will take place in conjunction with Stockholm+50. **date:** 1 June 2022 **location:** Stockholm, Sweden **www:** brsmeas.org/20212022COPs/HighLevelSegment/Overview/tabid/9138/language/en-US/Default.aspx

Stockholm+50: “Stockholm+50: a healthy planet for the prosperity of all – our responsibility, our opportunity” (Stockholm+50) will take place five decades after the 1972 United Nations Conference on the Human Environment. The event will provide leaders with an opportunity to draw on 50 years of multilateral environmental action to achieve the bold and urgent action needed to secure a better future on a healthy planet. **dates:** 2-3 June 2022 **location:** Stockholm, Sweden **www:** stockholm50.global/

Basel, Rotterdam and Stockholm Conventions COPs: The face-to-face segments of the 15th meeting of the COP to the Basel Convention, 10th meeting of the COP to the Rotterdam Convention and 10th meeting of the COP to the Stockholm Convention will convene under the theme “Global Agreements for a Healthy Planet: Sound management of chemicals and waste.” **dates:** 6-17 June 2022 **location:** Geneva, Switzerland **www:** brsmeas.org/

For additional meetings, see sdg.iisd.org/

Glossary

BAN	Basel Action Network
BRS	Basel, Rotterdam and Stockholm Conventions
COP	Conference of the Parties
CRP	Conference room paper
ESM	Environmentally Sound Management
E-waste	Electrical and electronic waste
GRULAC	Latin American and Caribbean Group
ITI	Information Technology Industry Council
OECD	Organisation for Economic Co-operation and Development
OEWG	Open-ended Working Group
PACE	Partnership for Action on Computing Equipment
PIC	Prior informed consent
POPs	Persistent organic pollutants
SIWG	Small intersessional working group
ToR	Terms of reference
UNEA	United Nations Environment Assembly