

Summary of the 13th Meeting of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal: 21-23 February 2023

The work of the thirteenth meeting of the Open-ended Working Group (OEWG-13) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal took place against the backdrop of heightened global activity in the chemicals and waste cluster, including: the recent launch of negotiations both to formulate a global agreement on plastic pollution and to create a new science-policy panel on chemicals, waste and pollution; and the fifth International Conference on Chemicals Management (ICCM5) later this year, which is scheduled to adopt a new global platform or instrument on the sound management of chemicals and waste.

The OEWG agreed on strategic, legal and technical matters for consideration by the sixteenth meeting of the Conference of the Parties (COP 16) in May 2023. On strategic matters, the OEWG forwarded revised findings and recommendations to improve, as appropriate, the strategic framework for the implementation of the Convention. The OEWG also recommended that the COP establish a small intersessional working group (SIWG) to identify challenges in implementing the Convention’s prior informed consent (PIC) procedure and develop recommendations to improve its functioning.

On legal matters, the OEWG recommended that COP 16 request the expert working group created to review Convention Annexes I, III and IV to consider European Union (EU) proposals to amend Annex IV (disposal operations), and to develop recommendations on the review of Annexes I (categories to control) & III (hazardous characteristics).

On technical matters, the OEWG considered several updates to existing technical guidelines on the environmentally sound management (ESM) of different wastes. Delegates reviewed and revised two updates of technical guidelines for COP 16 consideration on wastes containing, consisting or contaminated with persistent organic pollutants (POPs): the general guidelines on POPs wastes, and specific guidelines for 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, to include perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds.

The OEWG also reviewed the draft update of the 2003 technical guidelines on waste lead-acid batteries developed by a SIWG. They

requested the Secretariat to continue to work with the SIWG co-leads and a technical expert to revise the draft guidelines, taking into account OEWG-13 discussions, and to submit the revised draft to COP 16 for its consideration.

The OEWG revised the draft update of the technical guidelines on ESM of plastic wastes, but delegates asked for another round of comments by 31 March, and work by the Secretariat and a SIWG to further clean up the text before COP 16.

The OEWG decided to request a round of comments by parties and observers on several technical items by 31 March 2023 before submitting them to COP 16 for consideration, including:

- the proposed scope of work for updating the 2011 technical guidelines on ESM of waste pneumatic tyres;
- a proposal to develop technical guidelines on ESM of rubber wastes and waste parings and rubber scrap;
- a proposal on next steps in developing electronic approaches to the notification and movement documents required under the Convention;
- proposals for further activities on plastic waste under the Basel Convention tabled by the Secretariat; and
- recommendations on updates to existing Convention guidance, technical guidelines, and factsheets in order to reflect adjustments consequential to the adoption in 2022 of the electronic waste (e-waste) amendments to Convention annexes.

OEWG-13 convened in Geneva, Switzerland, from 21-23 February 2023.

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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 190 parties to the Convention.

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 specific technical and operational policies and decisions to strengthen implementation of the Convention. In addition, the OEWG prepares its own workplan for the COP's consideration and reports to the COP on activities carried out between COP meetings. 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 EU), the Organisation for Economic Co-operation and Development, and Liechtenstein) to non-Annex VII countries. The Ban Amendment entered into force in 2019 and currently has 101 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 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; 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.

COP 15: Due to the COVID-19 pandemic, COP 15 met in two parts: an online segment from 26-30 July 2021 to discuss the programme of work and budget, and an in-person segment held in Geneva from 6-17 June 2022 to address all other issues. COP 15 adopted decisions on, *inter alia*: amending the Convention to make all electronic and electrical waste subject to the PIC procedure; adopting technical guidelines on the incineration of hazardous wastes and other wastes as covered by disposal operations D10 (incineration on land) and R1 (use as fuel or other means to generate energy) and on disposal of hazardous wastes and other wastes in specially engineered landfill; and mandating work on electronic approaches to notification and movement documents under the Convention.

OEWG-13 Report

OEWG-13 Co-Chair Karim Ouamane (Algeria) opened the meeting on Tuesday, 21 February 2023. Co-Chair Nawaf Essam Bilasi (Saudi Arabia) stressed the key to a successful Basel Convention is the willingness of the global community to fulfill the objective of protecting human health and the environment. He urged delegates to work with the same good spirit and faith the OEWG has demonstrated for many years.

Rolph Payet, Executive Secretary of the Basel, Rotterdam and Stockholm (BRS) Conventions, noted the unusually short cycle between meetings of the OEWG and the COPs, resulting in compressed workloads for the Secretariat and intersessional working groups and a very full OEWG-13 agenda. He highlighted that the OEWG will discuss work to improve the PIC procedure, update several technical guidelines, provide for future Convention work on e-wastes and plastic waste, and ensure further legal clarity of the Convention and its implementation.

In opening statements, regional groups signaled their support for a productive OEWG and indicated their priority issues. Ghana, for the AFRICAN GROUP, highlighted the need to establish values for low POPs content in the update of the general technical guidelines on wastes consisting of, containing or contaminated with POPs, and for the update of the technical guidelines on plastic wastes.

Uruguay, for the LATIN AMERICAN AND CARIBBEAN GROUP (GRULAC), cautioned that work on the strategic framework should be aligned with the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs). She also underlined the importance of the update of the plastic waste technical guidelines and deciding on further Convention work on plastics to support implementation of the 2019 plastic amendments to the Convention.

Sweden, on behalf of the EU, described the momentum on the update of the plastic waste technical guidelines “as a strong signal” to the May 2023 session of the intergovernmental negotiating committee (INC) to develop an international legally binding instrument on plastic pollution, including in the marine environment. The EU also urged progress on improving the functioning of the PIC procedure and revising Annex IV (disposal operations).

Parties then adopted the agenda (UNEP/CHW/OEWG.13/1 and Add.1) and agreed to the proposed organization of work and schedule (UNEP/CHW/OEWG.13/INF/1 and INF/2).

Matters Related to the Work Programme of the Open-ended Working Group for 2022-2023

Strategic issues: Strategic framework: On Tuesday, the Secretariat introduced its note on the strategic framework (UNEP/CHW/OEWG.13/2) and the draft report on findings and recommendations to improve, as appropriate, the strategic framework for the implementation of the Basel Convention developed by Canada in collaboration with the SIWG (UNEP/CHW/OEWG.13/INF/3).

CANADA emphasized the importance of a revised strategic framework and highlighted the cooperative approach and quality of work developed by the SIWG. The EU agreed with proposals to improve structures of the strategic framework in three new areas and favored finalizing this work in the SIWG. The AFRICAN GROUP welcomed further discussion in a contact group. SAUDI ARABIA emphasized the importance of building technical capacities and allowing countries to determine the most appropriate pathway to achieve ESM of chemicals and waste, based on their resources and circumstances.

Delegates agreed to refer this item to the Strategic Matters Contact Group co-chaired by Abena Ayensu (Ghana) and Sophie Bernier (Canada). Contact group discussions began Wednesday with a presentation by CANADA of their work with the SIWG to prepare a draft report of findings and recommendations to improve, as appropriate, the strategic framework.

The contact group conducted a paragraph-by-paragraph review and revision of the findings and recommendations contained in document UNEP/CHW/OEWG.13/INF/3. One delegation made several textual proposals, which were discussed by participants, including:

- aligning the timing of the next framework with COP cycles;
- whether to also align the strategic framework with the 2030 Agenda and the SDGs;
- the possible inclusion of SMART (Specific, Measurable, Achievable, Relevant and Time-bound) indicators to measure progress;
- whether to include further work on definitions and terminology;
- challenges in using and including specific terminology, such as “punishment”;
- strengthening the role of Basel Convention regional centers;
- linkages with other conventions and processes; and
- more clarity on timelines to start developing the new strategic framework.

Outcome: The OEWG forwarded to COP 16 for its consideration the revised version of the draft report of findings and recommendations to improve, as appropriate, the strategic framework (UNEP/CHW/OEWG.13/CRP.4).

Work to improve the functioning of the prior informed consent procedure: On Tuesday, the Secretariat introduced its note on work to improve the functioning of the PIC procedure (UNEP/CHW/OEWG.13/3) and its synthesis of views on challenges in the implementation of the PIC procedure and on best practices, possible approaches, initiatives and ways to improve the functioning of the procedure (UNEP/CHW/OEWG.13/INF/4).

PAKISTAN mentioned challenges faced due to lack of coordination between exporting and importing countries, as well as instances where some countries are exporting waste without using the PIC procedure.

The EU, noting common challenges regarding the PIC procedure, said improving the functioning of the PIC procedure is key and recommended that COP 16 mandate the establishment of an intersessional expert group to work on this matter.

The RUSSIAN FEDERATION stressed the importance of establishing timelines for PIC, and mentioned issues resulting when there is no response from exporting countries. They noted the particular relevance of PIC in dealing with plastic waste.

SWITZERLAND recommended classifying the comments made by parties on the challenges in the implementation of the PIC procedure as a mapping exercise to avoid duplication.

CUBA and NIGERIA stressed PIC is a cornerstone of the Basel Convention and critical to the successful implementation of the recent plastics and e-waste amendments. CHILE said the PIC procedure needs to be updated and improved. MEXICO called for more financial and capacity-building assistance in effective use of the PIC procedure. GUATEMALA supported statements by CUBA, CHILE, and MEXICO.

The BASEL ACTION NETWORK (BAN) raised the case of the Brazilian aircraft carrier sold and shipped to Türkiye with an inaccurate inventory of its hazardous components in the PIC notification, noting that Türkiye returned the ship to Brazil as they have a right to do under the Basel Convention, but Brazil did not take it back but instead sank it in the Atlantic Ocean. BAN announced will seek to invoke the Convention’s compliance mechanism to look into the case.

Delegates agreed to refer this matter to the Strategic Matters Contact Group. On Wednesday afternoon, the group opened its discussion by canvassing general views on challenges faced in implementing the PIC procedure and best practices and possible ways to improve its functioning. On challenges, participants highlighted:

- problems in identifying the national authorities in countries, since many of those published in the Convention’s website are often not up-to-date;
- different definitions of what waste is and what a product is, which creates difficulties for authorities controlling shipments at their borders, as well as communication breaches between importing and exporting countries;
- delays in obtaining consent;
- notifications not arriving in time to stop or control shipments;
- lack of clarity of what a transit state is; and
- complications when several countries are involved in the PIC procedure.

On best practices, possible approaches, initiatives and views to improve the functioning of the PIC procedure, participants suggested:

- creating a standardized workflow, including a harmonized notification system for all countries;
- digitalizing the PIC procedure;
- publishing all procedures a country is involved in, to allow for transparency;
- creating harmonized legislation that uses the strictest definition of what hazardous waste is;
- modernizing and revising shipment rules;
- creating a database of importing facilities to speed up processes within countries; and
- providing a shared inbox for national authorities, so that they can be reached in case of personnel changes.

The contact group considered a recommendation to the COP drafted by the co-chairs to establish a working group to identify challenges and best practices, approaches and initiatives to improve the PIC procedure, taking into account the compilation and synthesis of information received from parties and observers set out in UNEP/CHW/OEWG.13/INF/4 and the OEWG-13 discussions, and make recommendations on improving the functioning of the procedure. They could not agree, however, whether the working group should be a SIWG or an expert working group.

The contact group returned to discuss the nature of the intersessional group on Thursday morning. Some participants highlighted that an expert working group would have broader geographical representation, while others noted the advantages of creating a SIWG, which has a more flexible nature and would not exclude the possibility of creating an expert working group at a later stage. In the end, delegations agreed on a SIWG with the inclusion of language in the draft decision inviting balanced representation of the five UN regional groups in the SIWG.

Participants also agreed to delete language that was introduced by one regional group, which suggested alternative ways forward to address challenges outside the current framework of the Convention.

Outcome: The OEWG adopted a decision (UNEP/CHW/OEWG.13/CRP.5) recommending that COP 16 establish a SIWG open to all parties, inviting balanced representation of the UN's five regional groups. The mandate of the group is to identify challenges in the implementation of the PIC procedure, and propose best practices, possible approaches, and initiatives to improve its functioning, taking into account the compilation and synthesis of information received from parties and observers set out in UNEP/CHW/OEWG.13/INF/4 and OEWG-13 discussions and ongoing work on electronic approaches to notification and movement. It is also tasked with developing recommendations on improving the functioning of the procedure.

Scientific and Technical Matters: *Technical Guidelines on the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic Pollutants:* On Tuesday, the Secretariat introduced the documents (UNEP/CHW/OEWG.13/4, UNEP/CHW/OEWG.13/INF/5, UNEP/CHW/OEWG.13/INF/6) regarding the update of the general technical guidelines on ESM of wastes of, containing, or contaminated with POPs ("POPs waste") and the specific technical guidelines on ESM of wastes consisting of, containing or contaminated with PFOS, its salts and PFOA, its salts and PFOA-related compounds, to include PFHxS, its salts and PFHxS-related compounds.

SWITZERLAND said the time had come to decide on low-POPs content values in the general guidelines on all the POPs wastes

covered, noting several, such as those for short-chain chlorinated paraffins (SCCPs).

Delegates agreed to refer work on the two technical guidelines on POPs wastes to the Technical Matters Contact Group co-chaired by Judith Torres (Uruguay) and Patrick McKell (UK). The contact group began work on Tuesday with consideration of the update of the general technical guidelines on POPs wastes. Among other things, a general exchange of views was held regarding low-POPs content values, without reaching consensus. Delegates agreed that this issue should be addressed at COP 16.

On Wednesday, the contact group turned to the update of the specific technical guidelines. Following a brief exchange on the overall structure of the text, delegates entered a lengthy discussion on terminology, with divergent views on how to refer to the broad cluster of per- and polyfluoroalkyl substances (PFAS). Many delegates favored adopting POPS-PFAS as an umbrella description, in line with the Stockholm Convention.

The contact group then embarked on a section-by-section review of remaining bracketed text. Discussions covered, among other contested language: how much detail to include to descriptions of types of wastes, production processes, including which scientific references parties should adopt to replace outdated publications. Remaining bracketed paragraphs in the section on sampling, analysis and monitoring approaches also elicited substantive exchange.

Outcome: The OEWG forwarded to COP 16 for its consideration the revised text of the general technical guidelines on POPs waste (UNEP/CHW/OEWG.13/CRP.2) and the specific technical guidelines on wastes involving PFOS, PFOA, and PFHxS (UNEP/CHW/OEWG.13/CRP.3), following further revisions by the Secretariat and the SIWG.

Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention: On Thursday, the Secretariat provided an oral progress report to the OEWG plenary. She noted that decision BC-15/7 called for an expert working group to prepare updated technical guidelines, taking into account the comments received by the Secretariat from parties and others as of 31 October 2022 on the results of their use and/or testing of the technical guidelines during its interim use phase, as well as the e-waste amendments adopted by COP 15. She reported an online consultation of the expert working group in September 2022 and plans for an in-person meeting on 8-9 March 2023, whose outcome would serve as the basis for COP 16 consideration.

SWITZERLAND stressed the importance of incorporating any changes to the technical guidelines well before the e-waste amendments enter into force in January 2025.

BAN noted that 22 developing countries indicated in their interventions during COP 15 that the current criteria in the technical guidelines distinguishing waste from non-waste is unacceptable, with particular concern about paragraph 32(b) allowing exports of used, non-functional electronics to be freely traded as long as the trader claims the equipment will be repaired and agrees to follow five voluntary criteria. He said this "repair claim loophole" is inconsistent with an ethical and responsible circular economy and weakened Basel Convention safeguards. He called for closing the loophole before the e-waste amendments take effect in January 2025.

Delegates agreed to take note of the Secretariat's oral report.

Technical guidelines on the environmentally sound management of plastic wastes: On Tuesday, the Secretariat introduced the draft update of the technical guidelines resulting from post-COP 15 work by a SIWG co-led by China, Japan and the UK and smaller drafting groups (UNEP/CHW/OEWG.13/INF/7).

NORWAY said the current draft of the guidelines update is a significant improvement from the one emerging from COP 15. He suggested the OEWG work to reduce bracketed text with a view to adoption of the guidelines at COP 16, with the understanding the guidelines may need further revision once the plastics agreement is reached.

JAPAN also praised the progress made in revising the update of the guidelines.

The EU called for adopting the finalized update at COP 16, and for an OEWG contact group to focus on sections on waste prevention and minimization, the identification of hazardous and non-hazardous plastic wastes, and the definition of bio-based, biodegradable and compostable plastics.

SWITZERLAND expressed confidence the update can be adopted by COP 16. COLOMBIA said the update is an excellent opportunity to clarify and harmonize criteria for classifying plastics and assisting implementation of the Convention's amendments on plastic waste. ARGENTINA urged caution in defining the scope of the revised guidelines, particularly with regards to recycling. NIGERIA supported discussion of the draft update in a contact group.

BAN agreed that the draft update is an improvement, but suggested the text does not adequately describe problems with plastics recycling technologies, particularly chemical recycling. He also said the guidelines should include other environmental considerations, such as the large amount of water used to clean plastic wastes.

The US said the update should provide more clarity on the interpretation of the Convention's provisions with regard to plastic wastes, but acknowledged the challenges associated with doing so.

Delegates agreed to refer the draft update of the guidelines to the Technical Matters Contact Group. In beginning contact group work on Wednesday, Co-Chair McKell suggested focusing on three clusters of bracketed text that were discussed at COP 15: paragraphs dealing with the definition of biodegradability of plastics; contested text on chemical recycling that is bracketed in its entirety; and the management of hazardous and non-hazardous plastics.

The contact group held a lengthy discussion on how to identify, assess and validate claims for biodegradability, as well as oxo-biodegradability and compostability of plastics. Following further work in an informal group, delegates agreed to a shortened text acknowledging that while some standards exist, they cannot be universally applied as they are designed for specific conditions. The group agreed to move two examples of International Organization for Standardization (ISO) standards for biodegradability into a footnote.

On chemical recycling, many delegates expressed concern about including this topic in the guidelines, emphasizing that current recycling processes are characterized by high energy demand, and can be harmful to human health and the environment, which is not in line with an ESM approach. With continued lack of consensus, the text was taken up by an informal group.

On Wednesday evening, delegates turned to draft text on waste prevention and minimization. Continuing discussions on Thursday morning, McKell noted that informal discussions on this portion had failed to reach consensus on numerous paragraphs. He invited the contact group to review bracketed text and attempt to clean some sections. Despite agreement on some new text proposals, progress was slow. Discussions became similarly stuck in sections on policy instruments and measures.

The contact group also briefly reviewed text in the section on health and safety, with McKell noting this had not yet been addressed by the SIWG.

Outcome: Delegates agreed that the text as amended by OEWG-13 should be further revised by an online session of the SIWG and then forwarded to COP 16 for its consideration.

Technical guidelines on the environmentally sound management of waste lead-acid batteries: On Tuesday, the Secretariat recalled COP decision BC-15/11 to update the 2003 technical guidelines on the ESM of waste lead-acid batteries and introduced the draft updated guidelines (UNEP/CHW/OEWG.13/INF/8) developed by a SIWG co-led by China, the EU and Uruguay. Delegates referred this item to the Technical Matters Contact Group.

Contact group discussion on Tuesday began with general input on the scope and structure of draft technical guidelines. Many delegates welcomed the draft Secretariat text but called for further improvements to bring it in line with other Basel Convention technical guidelines. Some noted that while the text improves on the 2003 version, it does not:

- sufficiently analyze institutional and other barriers to implementation;
- reflect recent technical advances;
- offer a cost-benefit analysis of investing in different materials;
- address emerging loopholes such as battery breaking and shipment of lead battery plates; or
- highlight existing practical experiences in applying similar guidelines.

On the way forward, many called for more time to be allowed for substantive input from parties, noting the current draft was prepared by a consultant and has not been reviewed by the SIWG.

Outcome: Delegates requested the Secretariat to continue to work with the co leads and a technical expert to revise the draft technical guidelines in light of OEWG-13 discussions, and to submit the revised draft to COP 16 for its consideration.

Technical guidelines on the environmentally sound management of used and waste pneumatic tyres: On Tuesday, the Secretariat referenced the section of its notes on technical guidelines (UNEP/CHW/OEWG.13/4) addressing this topic and its synthesis of the comments received from the members of the SIWG on the scope of work for updating the technical guidelines on the ESM of used and waste pneumatic tyres (UNEP/CHW/OEWG.13/INF/9).

The EU proposed forwarding discussion on this sub-item to COP 16. NORWAY underscored the need to update the technical guidelines in view of increased leakages of microplastics from used tyres and welcomed the reference to microplastics in the synthesis document, noting this text provides a substantive basis for continued work by the SIWG. The AFRICAN GROUP preferred to forward this sub-item to a contact group.

Outcome: Delegates decided to invite further comments on the proposed scope of work until 31 March 2023, for consideration at COP 16.

Consideration of whether to develop technical guidelines on the environmentally sound management of rubber wastes (entry B3040) and waste parings and scrap of rubber (entry B3080): On Tuesday, the Secretariat recalled paragraph 8 of COP decision BC-15/15 that invited views on whether to develop technical guidelines on this topic.

The EU, with NORWAY and CANADA, underscored the importance of further work on rubber waste but noted that in view of the OEWG's heavy workload, and the relevance of ongoing discussions on a plastics treaty, this discussion should be taken up at COP 16. BAN stressed that rubber should be subject to the same controls as other wastes.

Outcome: Delegates decided to invite further comments on the proposal to develop technical guidelines on rubber wastes until 31 March 2023, for consideration at COP 16.

Electronic approaches to the notification and movement documents: On Tuesday, the Secretariat introduced the relevant documents (UNEP/CHW/OEWG.13/5 and UNEP/CHW/OEWG.13/INF/10), noting that work on this matter was initiated in 2016 by the Convention's Committee Administering the Mechanism for Promoting Implementation and Compliance (ICC); COP decision BC-15/14 created a SIWG to look further into electronic approaches to the notification and movement documents; and the SIWG had suggested next steps.

The EU and COLOMBIA welcomed progress made by the SIWG, noting the potential contribution of an electronic mechanism for transboundary shipments of waste, especially for transit countries. CHILE and the US highlighted their experiences with developing electronic approaches. While welcoming progress towards more efficient PIC procedures, BANGLADESH suggested that further consultation on this topic is needed.

The INFORMATION TECHNOLOGY INDUSTRY COUNCIL highlighted two imperatives for moving to a more efficient electronic PIC process: the recent expansion of the Basel Convention to cover more wastes; and the potential contribution to advancing sustainable materials management, a circular economy, and broader climate and environmental objectives.

The EUROPEAN ELECTRONICS RECYCLING ASSOCIATION observed that the last guidance document on PIC was updated more than a decade ago, which shows the urgent need to catch up to today's realities.

Outcome: Delegates decided to invite further comments on the SIWG's proposal on next steps until 31 March 2023, for consideration at COP 16.

Further consideration of plastic waste: On Tuesday, the Secretariat introduced the documents (UNEP/CHW/OEWG.13/6, UNEP/CHW/OEWG.13/INF/11, UNEP/CHW/OEWG.13/INF/18), noting COP decision BC-15/15 invited parties and others to provide comments on possible future activities under the Convention regarding plastics to the Secretariat by 31 October 2022. She explained that the Secretariat prepared the draft document on possible further activities taking these comments into consideration, as well as work undertaken to follow-up on UN Environment Assembly (UNEA) resolution 5/14 on plastic pollution.

CHINA highlighted advancements in the management of plastic waste in their country and called to step up financial support to improve their waste management systems. He suggested more financial and technical support to developing countries to help them optimize their waste management systems.

The EU supported further activities but requested more time to consider the options and suggested soliciting another round of comments before COP 16. He suggested COP 16 could also set a date for evaluating the implementation of the 2019 amendments on plastic waste.

The RUSSIAN FEDERATION urged considering economic aspects in any future work, targeting pollution involving plastic waste, not products.

CUBA said it is still early to assess the efficiency of the plastics amendment.

CHILE cautioned against possible duplication and overlap with the INC on a plastics agreement.

BAN said the 2019 amendment is not being implemented or enforced, singling out the use by the EU, Canada, US and Mexico of "questionable" bilateral agreements under Convention Article 11. He also said Convention parties are failing to address large quantities of plastics traded under other customs codes, or reclassifying waste plastic shipments as fuel instead of waste.

Outcome: Delegates decided to invite further comments on the proposal on future activities until 31 March 2023, for consideration at COP 16. They also requested the Secretariat to suggest to COP 16 possible further activities that could be conducted under the Convention, taking into consideration the comments received, the work undertaken to follow-up on UNEA resolution 5/14, and OEWG-13 discussion.

Waste containing nanomaterials: On Thursday, the Secretariat provided an oral progress report to the OEWG plenary. She noted decision BC-15/16 invited parties and observers to make information available to the Secretariat by 31 December 2022 any new information related to activities aimed at addressing waste containing nanomaterials. She reported no submissions had been received by the deadline.

Delegates took note of the Secretariat's oral progress report.

Amendments to Annexes II, VIII and IX on e-waste: On Tuesday, the Secretariat introduced the documents (UNEP/CHW/OEWG.13/7, UNEP/CHW/OEWG.13/INF/12) regarding the amendments made by COP 15 to the Convention annexes on e-waste, and the Secretariat's recommendations on updates to existing guidance, technical guidelines, and factsheets in order to reflect adjustments consequential to the adoption of the e-waste amendments.

SWITZERLAND said the recommendations were a good basis to guide COP 16 discussions. The EU supported targeted and editorial amendments to reflect adjustments made at COP 15 and requested the Secretariat to reflect that more substantial changes are needed. NORWAY supported Switzerland and the EU. The AFRICAN GROUP stressed the need to update the technical guidelines on ESM of e-waste to reflect the adoption of the e-waste amendments.

Outcome: Delegates decided to invite further comments on the proposals on updates of existing guidance, technical guidelines and factsheets related to e-waste until 31 March 2023, for consideration at COP 16.

Providing further legal clarity: On Tuesday, the Secretariat introduced the documents providing further legal clarity on the EU proposal to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention and progress made in the review of Annexes I and III (UNEP/CHW/OEWG.13/8, UNEP/CHW/OEWG.13/INF/13, UNEP/CHW/OEWG.13/INF/14).

The EU acknowledged the need for further work on Annexes I and III, but given the complexities involved and gaps between positions, suggested any discussion at OEWG-13 be limited and more extensive discussion be postponed until OEWG-14. He urged discussion of the Annex IV proposals at OEWG-13, with a focus on areas most likely to reach consensus, leaving other areas for the consideration of COP 16 or intersessional work post-COP 16.

The AFRICAN GROUP called for the Annex IV proposals to be discussed in a contact group and have the OEWG urge the expert working group to finalize its work on Annexes I and III before COP 16. Noting that work on Annexes I and III is relevant to hazard characterization, CHINA recommended working on both annexes in tandem. CUBA expressed concern that modifications to Annex III could lead to increased costs for developing countries in implementing the Convention. SWITZERLAND stressed the importance of updating Annex IV, which was developed over 30 years ago and does not reflect current realities. She expressed support for the EU proposals on Annex IV, as did CHILE.

CANADA urged focusing OEWG-13 discussions regarding Annex IV on the six areas identified in the COP decision and supported limited discussion in a contact group on proposals for Annexes I and III, with a view to inform further work by the expert working group. SAUDI ARABIA suggested involving technical experts in further revisions. The US cautioned that some proposals for Annex IV changes may have unintended consequences, such as reducing information to parties, reducing clarity, and in some cases providing less environmental protection.

Delegates decided to refer this agenda item to the Legal Matters Contact Group co-chaired by Magda Gosk (Poland) and Perine Nkosi Kasonde (Zambia). The group began their discussions Tuesday based on the review of Annexes I and III included in document UNEP/CHW/OEWG.13/INF/14. A regional group proposed the deletion of the waste streams contained in Annex I, with the rationale of avoiding duplication, since a more detailed description of these is contained in List A of Annex VIII. Others opposed this proposal, arguing:

- the inclusion of waste streams is valuable, since they reflect the practical use of materials in the real world;
- changing the annex would create costly consequences in amending national legislation that is based on the contents of this annex;
- lack of clarity about the benefits to the environment in deleting this list; and
- uncertainty about the negative effects of keeping the list, other than to avoid some duplication in language.

Delegates then discussed proposals for new waste constituents, as well as whether any additional constituents in relation to plastic waste should be added to Annex I. A regional group supported the addition of the proposals contained in document UNEP/CHW/OEWG.13/INF/14, while others expressed caution and said they required more time to evaluate these proposals, as well as their implications for the implementation of the Convention.

Delegates exchanged views on possible amendment proposals to Annex III. A regional group, supported by another party, favored including new hazardous characteristics in Annex III, as well as coming up with a common understanding on the definition of what is hazardous, and suggested using the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) as a guide.

Other delegates opposed this idea, noting:

- the difficulty and cost of evaluating chemicals;
- the GHS was not created to prioritize environmental protection and the threshold it uses is very high;
- establishing one single threshold value does not allow a country to use the precautionary principle;
- the disparities between countries by income levels and by infrastructure in place; and
- a single global standard does not make sense for all countries.

Delegates did not comment on whether any additional characteristics in relation to plastic waste should be added to Annex III. Gosk wrapped up the meeting noting that discussions will be reflected in a Co-Chairs' summary and sent to plenary.

Outcome: The OEWG adopted a decision (UNEP/CHW/OEWG.13/CRP.1) that welcomes the progress made by the expert working group and takes note of the draft recommendations and findings developed by the group. The decision recommends that COP 16 request the expert working group to:

- consider the EU proposals to amend Annex IV and certain entries in Annexes II and IX, taking into account decision BC-15/19, discussions at COP 15, OEWG-13 and COP 16, and develop revised amendment proposals for consideration by OEWG-14; and
- continue to develop draft recommendations on the review of Annexes I and III, taking into account the discussions at OEWG-13 and COP 16, for consideration by OEWG-14.

International Cooperation and Coordination: Basel Convention Partnership Programme: On Tuesday, the Secretariat introduced its note on the Partnership Programme (UNEP/CHW/OEWG.13/9), highlighting:

- the amended terms of reference for the Partnership for Action on Challenges Relating to E-waste (PACE II);
- the draft guidance documents developed by PACE II and the partnership's draft programme of work for the 2024-2025 biennium (UNEP/CHW/OEWG.13/INF/15); and
- the draft workplan for the Partnership on Plastic Waste for the 2024-2025 biennium (UNEP/CHW/OEWG.13/INF/16).

SWITZERLAND and PAKISTAN welcomed work by various technical partnerships, including on e-waste and household waste. The EU said the draft documents serve as a good basis for continuing work in the lead up to COP 17.

On Thursday, the Secretariat provided an oral progress report on the implementation of the workplan of the working group of the Household Waste Partnership for the 2022-2023 biennium. She reported that two comments had been received on draft overall guidance document on the ESM of household waste by the 15 October 2022 deadline set in decision BC-15/22, and the Secretariat and the Partnership working group had produced a revised draft, with comments on the revised draft invited by parties and others by 31 March 2023. She said the revised draft overall guidance will be submitted to COP 16 for consideration.

Outcome: Delegates agreed to invite parties and others to submit their comments on the draft tables of contents for the guidance documents and the draft programme of work for 2024-2025 to the Secretariat by 31 March 2023, and to request the Secretariat to make those comments available on the website of the Convention for possible consideration by COP 16. They also took note of the oral progress report on the Household Waste Partnership.

Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System: On Thursday, the Secretariat introduced its note on cooperation with the World Customs Organization (WCO) on the Harmonized System (UNEP/CHW/OEWG.13/10) and on the progress of the work of the Harmonized System Review Subcommittee (UNEP/CHW/OEWG.13/INF/17). She noted recent proposals submitted for Harmonized System amendments regarding:

- waste mineral oils unfit for their originally intended use;
- wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyls (PCBs), polychlorinated terphenyls, polychlorinated naphthalenes or polybrominated biphenyls, or any other polybrominated analogues of those compounds;
- plastic waste; and
- waste pneumatic tyres.

CANADA underscored the importance of the work undertaken by the Secretariat with the WCO. BRAZIL welcomed the cooperation, but cautioned each organization must respect its individual mandate. The EU supported continued Secretariat work with the WCO's Harmonized System Committee and its relevant subcommittees to include wastes covered the Basel Convention in the Harmonized System.

Outcome: Delegates took note of the report and recommended that COP 16 encourage parties and others to provide information to the Secretariat, and, if invited to do so, to assist it in preparing further proposals to amend the Harmonized System to allow for the identification of the types of wastes listed in decision BC-14/9.

Work Programme of the Open-ended Working Group for the Biennium 2024-2025

On Thursday, the Secretariat provided an oral progress report on the OEWG work programme for the 2024-2025 biennium, noting the work programme would be submitted to COP 16 for its consideration and revised to account for the decisions adopted by the COP. Delegates took note of the report.

Adoption of the Report and Closure of the Meeting

On Thursday, the plenary adopted the report (UNEP/CHW/OEWG.13/L.1), as presented by Rapporteur Katrin Kaare (Estonia), taking note of one editorial comment.

In closing remarks, OEWG-13 Co-Chair Bilasi welcomed the progress made at this session, while noting the lack of consensus on several draft technical guidelines. Co-Chair Ouamane expressed satisfaction at what OEWG-13 had achieved and thanked delegates for the tremendous work done.

Chile, for GRULAC, welcomed the return of face-to-face OEWG meetings, which facilitates its work. He noted progress made on plastic wastes, and expressed hope that the update of the technical guidelines on waste lead-acid batteries could be finalized before COP 17. He noted the urgency of updating the strategic framework, as well as arriving at a common understanding of challenges and possible solutions for improving the PIC procedure.

The EU thanked participants for the energy and enthusiasm displayed, and expressed satisfaction with the advances made on key issues. He stressed the importance of adopting updated technical guidelines on plastics at COP 16, adding this will give a strong message to the INC process towards a plastics agreement.

The AFRICAN GROUP expressed gratification with the enormous progress made by the OEWG to advance work under

strategic, technical and legal matters, but reflected on how much remains to be done. He urged the Secretariat to work closer with the Convention's regional centers, and, since Africa is at the receiving end of waste shipments, more financial and technical help to meet the Convention objectives.

Indonesia, on behalf of the ASIA-PACIFIC REGION, expressed support for regional and international cooperation, and noted challenges in achieving the objectives of the Convention, particularly in the lack of means of implementation for developing countries.

Co-Chair Bilasi closed the meeting at 4:40 pm.

A Brief Analysis of OEWG-13

Delegates to the Basel Convention's Open-ended Working Group (OEWG) came to Geneva seeking to squeeze as much productivity into three days as possible. Given that the COVID-19 pandemic-disrupted the normal biennial work cycle between meetings of the Conference of the Parties (COP), the OEWG had only 11 months to deliver on mandates given by COP 15 before COP 16 meets in May 2023.

While recent sessions of the OEWG have all had packed agendas, OEWG-13 went even further. The agenda contained updates of several technical guidelines on environmentally sound management (ESM) of wastes due for COP 16 consideration, as well as recommendations to the COP on: improving the strategic framework for Convention implementation; electronic approaches to notification and movement documents; updates of Convention tools needed to account for the 2022 electronic waste (e-waste) amendments and recommendations for further Convention action on plastic wastes; as well as improving and modernizing the keystone of the Convention, the prior informed consent (PIC) procedure. Delegates also had to make progress on the work to refurbish Convention annexes to account for the current realities of global trade and waste management.

This brief analysis considers the outcomes of OEWG-13, with a focus on how the OEWG addressed the challenges of updating the Convention and its associated tools and ensuring the Convention is both relevant and functioning effectively given the shifting landscape of chemicals and waste policy.

Much to Do and Little Time to Do It

In his opening statement to OEWG-13, the Executive Secretary of the Basel, Rotterdam and Stockholm (BRS) Conventions, Rolph Payet, listed the Group's many important agenda items and the compressed work cycle, quipping "I'll be excited to see how you manage it all in just three days."

And manage it they did, in part by pragmatically recognizing that they could only focus in detail on so many things in three days and, thus, conducting a type of triage: passing five items on for another round of comments from parties and others before COP 16; leaving further work to intersessional groups before COP 16 on two items; and moving quickly and efficiently on the remaining items. Contact group co-chairs managed to keep discussions focused on areas where recommendations for COP 16 were most critical and trying to achieve consensus on as much as possible.

During the closing plenary, the Co-Chairs hailed the hard work and achievements of OEWG-13. While representatives from the regional groups echoed these sentiments, some expressed regret more progress had not been made to achieve consensus before the

COP on the update of the technical guidelines on the ESM of plastic waste. The regret stems in part from the oft-repeated declarations by many delegates that the updated guidelines will not only affect how parties interpret implementation of the 2019 amendment on plastic wastes, but might also influence and/or guide separate discussions underway in the Intergovernmental Negotiating Committee (INC) to develop an international legally binding instrument on plastic pollution, including in the marine environment with regards to such topics as plastics biodegradability, additives, recycling, and waste prevention and minimization.

Follow-up to Recent Basel Convention Amendments

The Convention annexes were amended to add entries on plastics in 2019 and e-waste in 2022, subjecting both to Convention controls and the PIC procedure. These amendments not only necessitate providing updated guidance to reflect the rapidly changing context of transboundary waste movements—notably in plastic waste intended for recovery and used electrical and electronic equipment intended for repair and/or reuse—but also updating an array of associated Convention factsheets and other technical tools. The OEWG considered, and agreed to forward to the COP, one such update proposal from the Secretariat regarding e-wastes, although delegates did request soliciting additional comments before COP 16.

On a Secretariat proposal for further work on plastics, which may influence the INC process and determine what role that the Basel Convention might play in the future plastics agreement, the OEWG invited parties and others to submit written comments before COP 16 and forwarded the proposal to the COP. The Secretariat proposal suggests the creation of an expert working group tasked with developing tools on prevention and minimization of plastic waste and its hazardous constituents, ESM of specific waste streams where plastic is relevant, technologies for recycling plastic wastes, illegal traffic in plastic waste, and financing the ESM of plastic waste. The proposal also envisions a BRS role in helping parties generate data on plastic waste generation, trade, recycling, disposal and leakage into the environment, and even support for developing national plastic waste inventories and action plans.

Refurbishing the Chemical/Waste Cluster's Oldest Multilateral Agreement

The OEWG also made progress on work started several cycles ago to review and revise the Convention's annexes, recognizing that some of these have not been adjusted in more than 30 years and may no longer adequately reflect current global trade and waste management realities. The plastics and e-waste amendments have brought into sharper focus that annex provisions on recycling, disposal operations, and waste constituents need to be updated to reflect current waste management practices and the increasing trade in waste for global repair, reuse, and recycling.

This exercise, because of its complexities and potential legal and trade impacts, is by necessity a slow and arduous process, but the OEWG is trying to move it forward. However, the revisions face some headwinds: some parties worry about the uncertainty of the practical consequences of proposed changes, while others dread the legislative headaches they may eventually face at home to implement such changes because they have already embedded the Convention annexes in national legislation and regulations.

On a more practical front, there is now widespread recognition that the PIC procedure has had holes and misfirings in its practical implementation for years, and the time has come to fix it. Likewise,

many parties and waste traders want the necessary documentation to enable effective implementation of the Convention, including bringing notification and movement documents fully into the electronic age, arguing that “ePIC” may fix some of the current problems with the PIC procedure. The OEWG sent recommendations to the COP to kick start fixing the PIC and bringing key documents into the electronic age.

Much Accomplished, but More to Do

OEWG-13 managed to accomplish a lot in a little time, especially given the compressed calendar. Delegates set the table well for COP 16, although the COP will likely have to devote significant time to completing the revision of the update of the technical guidelines on ESM of plastic wastes, especially given the importance of the interpretation of the 2019 amendment and what message this sends to the plastics INC. Depending on the outcome of political decisions at COP 16 on the strategic framework, PIC, electronic approaches to notification and movement documents, waste pneumatic tyres and future Convention work on plastic waste, the next work cycle may likely be even more ambitious.

Upcoming Meetings

Resumed Fourth Meeting of the SAICM Intersessional

Process: Delegates will continue discussions on the future arrangements of the Strategic Approach to International Chemicals Management (SAICM) beyond 2020, ahead of the fifth session of the International Conference on Chemicals Management (ICCM5). **dates:** 27 February - 3 March 2023 **location:** Nairobi, Kenya **www:** saicm.org/Beyond2020/IntersessionalProcess/FourthIntersessionalmeeting/tabid/8226/language/en-US/Default.aspx

Basel COP 16, Rotterdam COP 11 and Stockholm COP 11:

The next TripleCOP will address the listing of chemicals under the Rotterdam and Stockholm Conventions as well as technical guidelines for the environmentally sound management of wastes, including plastics, under the Basel Convention. Technical and financial support, among other issues, will also be addressed. **dates:** 1-12 May 2023 **location:** Geneva, Switzerland **www:** brsmeas.org/2023COPs/

For additional upcoming events, see sdg.iisd.org/

Glossary

BAN	Basel Action Network
BRS	Basel, Rotterdam and Stockholm Conventions
COP	Conference of the Parties
ESM	Environmentally Sound Management
E-waste	Electrical and electronic waste
GRULAC	Latin American and Caribbean Group
OEWG	Open-ended Working Group
PFHxS	Perfluorohexane sulfonic acid
PFOA	Perfluorooctanoic acid
PFOS	Perfluorooctane sulfonic acid
PFOSF	Perfluorooctane sulfonyl fluoride
PIC	Prior informed consent
POPs	Persistent organic pollutants
SDGs	Sustainable Development Goals
SIWG	Small intersessional working group