



Comments from the EU and its Member States on the definitions and explanations of certain terms and on the options for further steps towards the consistent interpretation of terminology (decision OEWG-9/8 on providing further legal clarity)

Further to the Basel Secretariat's letter of 29 September 2014 requesting parties and others to submit information and comments requested in decision OEWG-9/8, please find below the EU and its Member States response to this request.

Decision OEWG-9/8 invited parties and others to submit comments by 31 October 2014 on the definitions and explanations mentioned in the meeting report of the ninth meeting of the Open-ended Working Group and on the options for further steps towards the consistent interpretation of terminology, including possible voluntary and legally binding options.

1. Concerning the additional definitions mentioned in doc. CRP.15, we have the following comments:
 - it is unclear why "hazardousness" has been added and what it adds compared to "hazardous wastes". In this context, rather than trying to define new terms, we would suggest to draw attention to the review of the hazardous characteristics in Annex III of the Convention that has been suggested by the SIWG.
 - it is unclear why the terms "prevention" and "reduction" have been added in the light of the fact that the primary aim of the glossary is to help clarify the terms relating to the distinction between wastes and non-wastes (see para. 3 of the draft glossary in Annex I of doc. INF/20). These terms fit clearly into the work stream developing guidance on prevention and therefore can be clarified in the context of the follow-up to the Cartagena declaration.
 - it is unclear why it reads "good/product" and "used good/product", as in our view these are different terms; "good" is a broader term than "product", see the definition of good in section III of the draft glossary. It should be possible to include explanations that help the waste/non-waste distinction by referring to both products and goods without suggesting the terms are synonymous.
 - Concerning the terms mentioned in doc. CRP.15 that should be part of explanations, we believe that it is important to keep the explanations already contained in the text of section II of the draft glossary as these explain how the terms relate to each other, and give further explanations (see para. 4 of the draft glossary). So we expect a longer guidance document because we believe that any attempt to shorten it would undermine the usefulness of the document itself.

2. Furthermore we would like to reiterate the following suggestions for amendments to the glossary of terms:
 - I. Introduction
 - Paragraph 2, Footnote 2
Correct reference to art.1, para.2 instead of art. 2, para. 1
 - II. Explanations
 - Paragraph 13
In the sentence “once a used good is being reused, it is not waste” replace “once” with “when”.
 - Paragraph 15
The final sentence “A product may still be a product after becoming a waste” should be replaced by:
“At the same time, it may still be considered as a product in some countries.”

3. Concerning the options for further steps towards the consistent interpretation of terminology, including possible voluntary and legally binding options set out in Annex III of document UNEP/CHW/OEWG.9/INF/20, the EU and its Member States generally believe that the SIWG proposals need to be thoroughly discussed. For example, we support reviewing Annex III of the Convention and suggest amending this annex taking into account the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). We also think that other legally binding options should be considered. For instance, in addition to reviewing Annex III of the Convention, it may be useful to consider reviewing Annex I of the Convention, in the light of the fact that in practice the national law of some countries recognizes other constituents than the ones listed from Y19 in Annex I.

4. Finally, concerning the procedure to revise the draft glossary (see para. 4 in the OEWG9 decision - doc. CRP.12), we would suggest that the Secretariat prepares a draft, circulates it to the SIWG members with the invitation to provide comments in writing, and prepares a further revised draft which could then be discussed within the SIWG preferably at a second physical meeting e.g. in January 2015.