

UNEP/CHW.13/INF/10

REVISION OF ANNEXES I, III AND IV AND RELATED ASPECTS OF ANNEX IX

The present report addresses the analysis of UNEP/CHW.13/INF/10 document, which has been developed by Canada in the light of the Swiss-Indonesian follow-up initiative as lead countries, in the revision of Annex I, II, IV and related aspects of Annex IX, mandated by the 13th Conference of Parties of Basel Convention to improve its implementation and legal clarity.

The document compiles, in consultation with the ISWG on Legal Clarity, the views that emerge from the responses provided by Parties and other stakeholders to a conceptual questionnaire developed by Canada.

Firstly, we wish to express that we welcome and consider necessary the work that the OEWG is carrying out, and we share the need for the revision / updating of the annexes under analysis, with the understanding that the clear identification of wastes is mandatory to ensure its sound environmental management.

Annex I

We believe that having a precise classification of hazardous wastes, considering their correct identification and description, is the keystone of sound management.

In this regard, it would be a priority to begin the analysis of those hazardous wastes that held up more than one constituent and to clarify the definition of some waste streams to provide better clarity on their scope.

We also find extremely important, that notifications of the transboundary movement must include an unequivocal classification of the waste stream involved, in order to guarantee the acceptance in the disposal facility: as well as plenty description of the waste, including its aggregation status.

On the other hand, and considering that being a waste included in Annex I is an essential condition for being controlled under the Convention, it is important to analyze whether there are other waste streams that have dangerous characteristics but aren't currently listed in this Annex, must be included. Some examples of this have been called in the document under analysis.

In that sense, we consider that addition of new categories in Annex I, such as those related to nanotechnology, merits further scientific-technical analysis in order to determine, in this sense, the associated hazard characteristic in Annex III and related possible operations on Annex IV.

With regard to concrete proposals to expand or add categories to Annex I, many of the conflicts exposed, we can't glimpse them, as well as the need to include some waste streams since we consider that they already are covered. However, we recognize that the greatest uncertainty is provided in those wastes stream that gives an idea of the origin of the waste, but not the waste itself about. Thus:

- For example, waste stream Y01: we understand that under this stream would also apply to wastes covered in other streams. In this sense, we suggest to modify the name of the stream in order to not subordinate generation of infectious wastes to the field of health. For example "*Waste generated in human or animal healthcare services as well as in other establishments that, although not in the specific area of health, generate waste as a result of prevention, control, diagnosis, treatment, rehabilitation or research*".
- With respect to waste stream Y18, we understand that a clear description of wastes expected to be found in such a stream, will clarify the scope of it, in the intelligence that, wastes involved on Y18 in general, have more than one constituent (for example, bottom ashes of incineration of hazardous wastes). In this matter, in Argentina we adopt the criteria this waste stream should be used only if a particular waste can't be classified preliminarily with a/some constituent/s; because, in short, the hazard is because of its constituents, independently its origin.
- Regarding to wastes consisting of mercury or mercury compounds (Y29), it is essential to work closely with the group especially created for this purpose, within the framework of the Minamata Convention.

The biggest problem that we find in Annex I it is about Y14, where, since it covers waste chemicals substances arising from research, the definition itself states that the nature of the substance, its effects and hazards are not known. In this context, we understand that the conflict is given to define a waste that belong that stream, since it is not possible to assign any characteristic of Annex III, condition of the definition of hazardous waste of the Convention “*Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III*”. Therefore, we suggest analyzing the topic in more depth.

As regards wastes having as constituents organohalogenate compounds other than substances referred to in Annex I (under Y45) and ozone depleting layer, we understand that, they are not subject to control as wastes in the framework of the Basel Convention, because of the lack of the corresponding specific hazard characteristic in Annex III. Also, special attention in overlaps between Montreal Protocol and Basel Convention should we taken, in particular trade and the “reuse” characteristics of the gases concerns in the first one.

Regarding thresholds or values of minimum concentration in wastes, we consider that such labor should be addressed in the framework of Annex III, by developing and updating technical guidelines. It also important to remark the natural synergy between Basel, Stockholm and Minamata Conventions, which results in the possibility of direct adoption of the thresholds stipulated or stipulated therein.

Annex III

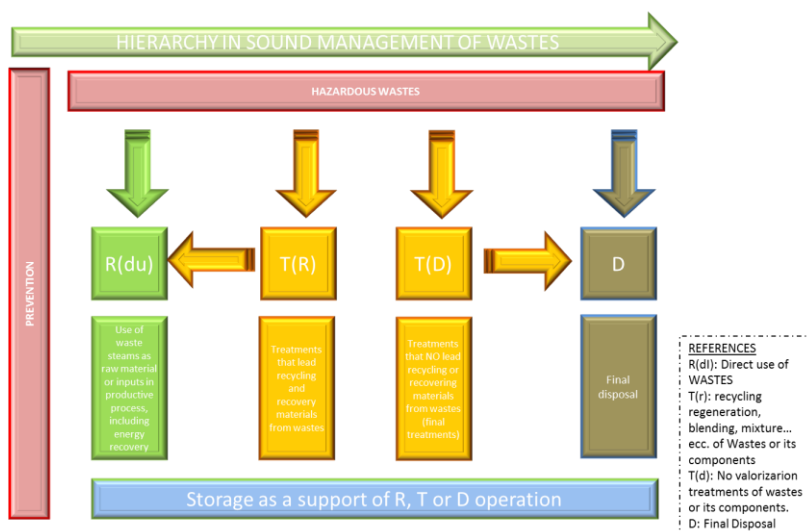
It’s important to highlight that guidelines related to determination of HAZARDOUS CHARACTERISTICS are interim and has not been fully developed. That’s why, many of the features currently listed in Annex III, do not have a clear reference or methodology and acceptable techniques to determine if a waste of Annex I has any of them. This labor is also linked to assess limits of hazardous constituent in wastes in order to determine if they exhibit any hazard characteristic.

In this sense, we believe that the work of the OEWG should be based on reviewing the characteristics currently set out in Annex III, specifically focusing on the inherent risk of waste and not on risk during transport. Perhaps the GHS could be used as a starting point to redefine the current characteristics of Annex III (in cases where they are common to both) by adding those related to inherent ecotoxicity of a waste.

Maybe, it would be advisable to classify the hazard characteristics according to them as posing a physical, health or environmental hazard, clearly defining their scope.

Annex IV

We understand that Annex IV should be updated in order to contextualize it according to the hierarchies in waste management established in *Decision BC 10/2 on the strategic framework for the implementation of the Basel Convention for 2012-2021*, when operations could be grouped - at least - according to that order and validate the need to add treatments or disposal operations according to it.



We understand that it's vitally important to clarify those circumstances and operations where hazardous waste can be used directly, without any kind of treatment. Likewise, it's proposed to OEWG to evaluate the possibility of granting them the condition of "raw material or input in a process", recognizing their condition, by establishing new categorization that allows their control – as non-waste - but that responds to the environmental needs to encourage recovering and recycling by favoring the hierarchy of waste management.

We recommend considering the following operations in Annex IV: "*storage; the direct use of waste as substitution of materials in processes; treatment (whether or not they lead to material recovery or energy, and waste recycling); and final disposal*". At this point, it is possible to emphasize an idiomatic and conceptual aspect, since we understand that "final disposition" (understood as the last option of the hierarchy) should be differentiated from the treatment operations (involving wastes physicochemical transformation, to its (or not) valorization).

On the other hand, we recognize that it is necessary to make clarifications or more precise descriptions in some operations, so that the Parties apply a uniform criterion; as well as to analyze the relevance of excluding those operations that are not considered environmentally appropriate in the context of a transboundary movement of wastes. Among those last ones we find operations D6 and D7.

As a general rule, for heat treatments such as land and sea incineration (D10 and D11), as well as for specially designed landfill and landfills (D1 and D5), it is reminded that a SIWG has been conformed with the purpose of review related guidelines of those operations. It is for this reason that we propose that any observation or proposal on this respect, should be articulated with that group in order to avoid overlaps or conceptual misunderstandings

Finally, and with the understanding that Annex IV operations should be commensurate with the wastes attained in Annex I, we consider it appropriate to observe whether there is any specifically technology applied to a particular waste stream. For example, for infectious waste (H6.2), steam disinfection or "autoclaving"; or operations where nanotechnology is involved (for the treatment of wastes composed of nanometer materials or where using nanomaterials as part or component of the technology of treatment); or dismantling or preparation treatments for reuse / use intended, totally or a part of a waste's components

With regard to the proposals relating to the Title, Sections, clarifications and scope of Annex IV:

We understand that the title of the Annex should not be modified, since then whenever it is alluded this title in the text of the Convention, it must be changed.

Title of the Sections of the Annex and caption text: we consider it necessary to be redefined as "operations of storage, treatment, use and final disposal", since, in practice, integrated waste management can contemplate one or more of those stages. Regarding "direct reuse" we understand that it should be extracted from the text since, according to the Glossary of Terms, such terminology would not be applicable to materials that are legally considered waste.

Text of Annex IV.A and IV.B and introductory text: At this point, it is very important to be clear that those operations listed in IV.B are applicable to materials previously defined as hazardous wastes. Therefore, we consider appropriate the proposals set out in the document under analysis in point 57 as to the introductory text. However we consider the review of this point for consideration by the OEWG under the proposed rearrangement at the beginning of the analysis.

We understand that this approach will also facilitate the differentiation between those operations that have the scope of recovery of materials from waste and then lose their condition of waste by being subjected to operations of co-processing or direct use, such as their use as fuel, where prior conditioning of wastes is necessary or, the process itself where the waste is consumed.

In this context, we consider necessary to work on those treatments or direct use operations that are included in the same operation: for example, R9, where "regeneration" (is a treatment) and "other reuse" (use of previously used oils could, according to the scheme outlined, be split into two different operations.

In other hand, operation R11 should also be reviewed and evaluated about its relevance of clarification in order to be more descriptive.

Annex IX – entry B1110

It is our understanding that B1110 intended for reuse or direct reuse should not be considered as waste while in its current condition are intended to continue with its useful lifecycle.

For this reason we suggest to modify the description of the last part of entry B1110 as follows: "*electrical or electronic assemblies (including printed circuit boards, electronic components and wire) destined or intended for any operation in Annex IV*".

Final conclusion

As discussed throughout this document, we are convinced that the revision of the Annexes should be carried out in a synergistic manner. Therefore, such work should be carried out in full and single working group.